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USE OF DRUGS AND BANNED PRACTICES
INTENDED TO INCREASE ATHLETIC PERFORMANCE

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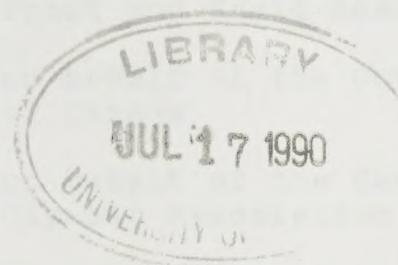
THE HONOURABLE MR. JUSTICE CHARLES LEONARD DUBIN

HEARING HELD AT 1235 BAY STREET,
2nd FLOOR, TORONTO, ONTARIO,
ON MONDAY, SEPTEMBER 18, 1989

VOLUME 85

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C O U N S E L:

R. ARMSTRONG, Q.C. Ms. K. CHOWN	on behalf of the Commission
R. BOURQUE	on behalf of the Canadian Track and Field Association
E. SOJONKY A. PREFONTAINE	on behalf of the Government of Canada
R. McCREATH	on behalf of the Canadian Olympic Association
R. McMURTRY, Q.C. A. PRATT	on behalf of Charles Francis
E. FUTERMAN	on behalf of Ben Johnson
R.J. CLAYTON	on behalf of Arne Ljungqvist

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---- Upon resuming:

THE COMMISSIONER: Mr. Armstrong?

MR. ARMSTRONG: Yes, thank you, Mr.

5 Commissioner.

Our next witness, as I indicated last Thursday, is Dr. Arne Ljungqvist, who is present and ready to be sworn.

THE COMMISSIONER: Good morning.

10 MR. CLAYTON: Mr. Commissioner, I don't know if it's necessary that I ask for standing on behalf of the International Federation. My name is for Robert Clayton and if that is required, I would ask ---

THE COMMISSIONER: Well, you're welcome, with or without standing.

MR. CLAYTON: Thank you, Mr. Commissioner.

15 THE COMMISSIONER: We won't stand on ceremony.

20 ARNE LJUNGQVIST: Sworn.

THE COMMISSIONER: Mr. Armstrong?

MR. ARMSTRONG: Thank you, Mr. Commissioner.

25

--- EXAMINATION BY MR. ARMSTRONG:

Q. Dr. Ljungqvist, I'm going to take a few brief minutes to review your academic and professional background.

5

First of all, you studied medicine at the Karolinska Institute in Stockholm, receiving your medical degree in 1959, is that correct?

A. That's right.

10

Q. And then I understand you did further post-graduate study and received your Ph.D. degree in pathology from the same institute in 1963?

A. Yes.

15

Q. And you explained to me this morning that the Karolinska Institute is indeed the medical school in Stockholm?

A. Yes.

Q. All right. And then your area of research and special study is cardiovascular research and kidney disease, is that correct?

20 A. Yes.

Q. You are chairman of the Department of Pathology and Cytology at the Karolinska Institute, the institute from which you graduated, at the present time?

A. Yes.

25 Q. And as well as carrying a teaching and

research load, you indeed also have a clinical practice?

A. Yes.

5 Q. And then, Dr. Ljungqvist, I understand that between 1977 and 1983 you were Vice-Dean and Pro-Rector of the Karolinska Institute, which would have made you the number two person in the administrative structure of that academic organization?

A. Yes.

MR. ARMSTRONG: All right.

10 THE COMMISSIONER: Who was number one?

MR. ARMSTRONG:

15 Q. And then a further note of interest in respect of the Karolinska Institute, in that it is the body in Sweden which issues the Nobel Prize in Sweden?

A. Yes, that's right.

Q. All right. Then let me take a moment to move from your academic and professional background to review your background in athletics.

20 From a young age you were a high jumper in Sweden?

A. Yes, I was.

25 Q. And I understand that in the years 1949, 1950 and 1951 you were the junior champion in Sweden?

A. Yes.

Q. And then in 1952 you were the overall Swedish champion?

A. Yes.

5 Q. And also in 1952 you were a member of the Swedish Olympic team competing in the Helsinki Olympics, where you qualified for the final in the high jump?

A. Yes.

10 Q. Then I understand you retired from sport in 1952 after the Olympics and pursued your medical career, and after a 20-year absence or so, you went back into sport in a volunteer capacity as a member of the Swedish Track and Field Federation's board?

15 A. Yes.

Q. And from 1973 to 1981 you were president of the Swedish Track and Field Association, is that correct?

A. Yes.

20 Q. In 1975 you were a member of the board of the Swedish Sports Confederation which, as I understand it, is the umbrella group for sport organizations in Sweden?

A. Yes, that's right.

25 Q. And then in 1976 you were elected a

member of the International Amateur Athletic Federation Council?

A. Yes.

Q. In 1981 you became a vice-president of the IAAF and a chairman -- and the chairman of its Medical Committee, is that correct?

A. Yes.

Q. And you hold both those positions today, that is, vice-president of the IAAF and chairman of the Medical Committee?

A. Yes.

Q. In 1987 you joined the IOC Medical Commission, and you're a member not of the Doping and Biochemistry Sub-Commission, but you're a member of another Sub-Commission of the IOC Medical Commission, is that right?

A. Yes, the Sports Medicine Commission.

Q. You explained to me, however, this morning that there is a fair amount of cross referencing between the various subcommittees and that when the IOC Medical Commission sits, all of the members of the various subcommissions sit, so that you presumably participate in discussions of the IOC Medical Commission that relate to doping matters from time to time?

A. Yes, that's right.

Q. All right.

And then on the Olympic side of your responsibilities, you, as were other members of the IOC Medical Commission, involved in the -- you were involved 5 in the 1988 Games in Seoul where you from time to time were responsible for the doping control station at the athletics events in the stadium ---

A. Yes.

Q. --- main stadium, is that correct?

10 A. Yes.

Q. Now, I just wanted to ask you to take a moment, if you would, and explain the activities of the IAAF Medical Committee.

15 What are its responsibilities in general terms, please?

A. Well, it is the medical expertise group within IAAF, of course, and as such, all the medical related matters at the international track and field level is referred to -- are referred to the Medical Commission 20 for consideration.

This means that we may take action ourselves when we feel it is needed for medical reasons; it means that we give our voice heard when requested by various bodies. We propose rule changes to the Council when we 25 feel it necessary. We propose medical representatives to

various types of competitions.

We -- for these reasons we have regular meetings, usually once or possibly two times per year.

Q. And I assume that in proposing changes to the rules that are passed on to the Council, you are probably involved in proposing rule changes in respect of such matters as doping control?

A. That's right, yes.

Q. And the Medical Committee has how many members, approximately?

A. Oh, dear, I ought to know. It's --- could be something like 15.

THE COMMISSIONER: Is that the IAAF Medical Committee you're speaking of?

MR. ARMSTRONG: The IAAF Medical Committee.

I have an advantage over you in that I have the book --- oh, you've got the book --- I just counted them up at page 17 -- it looks like you're right, there's 15 ---

THE WITNESS: I disregarded myself, I think ---

MR. ARMSTRONG:

Q. There's 15.

Then just so that we have it from a

procedural and structure point of view, if for example the
IAAF Medical Committee is going to propose a set of rule
changes in respect of some medically related matter, those
rule changes would go to the Council and it, in turn,
5 would review them, consider them and if they accepted the
proposals, they would pass them onto the Congress?

A. That's right, yes.

Q. And the Council is made up -- it, I
take it, is like the board of directors or the executive
10 body of the IAAF, is it?

A. Yes.

Q. And it's got approximately 21, 22
members?

A. Yes, 23 members now, I feel it is.

15 It's been changed from time to time. Increased.

Q. All right. And then the Congress is
made up of the full membership of the IAAF which we heard
last week is 182 member nations, I believe?

A. Yes.

20 Q. So the procedure then on a rule change
would be from committee, such as yours, the Medical
Committee, to the Council, composed of some 21 or so
members ---

A. Mm-hm.

25 Q. --- or 23, as you suggested, and then

from then on to the Congress ---

A. Mm-hm.

Q. --- for its final approval?

A. Yes.

5 Q. Then let me ask you this. Does the
IAAF Medical Committee or any other committee of the IAAF
involve itself in any kind of education programme?

A. Yes, sure, we do.

10 Q. And what about in the area of doping
control? Has it been a responsibility of the IAAF Medical
Committee to involve itself in an educational programme?

A. Yes, it has.

15 We have been asked to look into the problem
areas of the literature for various types of people
involved in track and field, with particular reference, of
course, to the doping question, and we decided some few
years ago, for instance, upon the publication of an
informative booklet on doping intended for the young
generation, for coaches, for parents, schoolteachers and
20 the like.

And I take some pride, of course, in the
fact that it is more or less a translation of a similar
Swedish book that we put together some few years earlier.
And that particular book, which is called in English "Save
25 the Future, Save Yourself", has now been translated into

Spanish, and to French. It has a worldwide distribution. I have copies of it here. This is just one example.

5 Medical Committee has also taken the initiative of starting a, a programme on medical conferences which ended up with two recent conferences solely on the doping issue sponsored by IAF, which is another body -- International Athletics Foundation -- which raises money to sponsor various activities in IAAF.

10 So we had in 1987 a doping symposium for our people and for scientists in Florence, and this year in Monte Carlo.

15 We had also this year, initiated by us, a workshop for officials that act as doping officials or doping station officials in collecting samples, and that particular workshop was also intended for press, for media people, so it was sort of a combined media and technical workshop which was staged, in conjunction now with the Barcelona Congress, by the way, so it's very recent.

20 Q. I'm going to just for a moment move away from the IAAF itself and ask you some questions about the situation in Sweden, and in particular about the Swedish out-of-competition testing programme, of which we have heard some things.

25 And could you just take a moment, first of all, and tell us when was out-of-competition testing

instituted in Sweden and tell us what the general scope of it is, please?

5 A. To make it short, we started our anti-doping programme in my country around 1977 when the Doping Sub-Commission was formed. I think that is sort of an interesting note because we, in a way, pioneered in this, but it's only 12 years ago. So this gives the idea that the fight against doping is a fairly recent event.

10 In nineteen- -- we started on by taking, taking up various types of activities; we very soon realized that we have to conduct testing as part of our anti-doping programme, which also included, as I mentioned to you, the production of education material, also giving courses, was doing research, by the way.

15

20

25

5 In 1981, we decided to go into out-of-competition testing. And that was after discussions with our legal advisors as to whether this would be possible or not in a country like ours to do because there was a question of it violating the privacy of people when we sort of knock on their doors and asked them to provide a urine sample.

10 But our legal advisors told us that you are perfectly entitled to do it according to the rules we have and according to the Swedish legislation because the athletes have the full right to say "no", but then our competition rules say that, okay, but then you cannot compete, the choice is yours.

15 So, on this basis we started out-of-competition testing program in 1981 by conducting some few hundreds of tests only and then it has increased. And in 1988, we had a total number of athletes tested domestically and it run 2,000.

20 THE COMMISSIONER: Out of competition?

 THE WITNESS: Eighty-five percent of them out of competition and the others at various types of domestic championships.

25 THE COMMISSIONER: Isn't there a arrangement, though, with other countries like Norway and so on? Is there sort of a Nordic agreement?

THE WITNESS: Yes, we have gone together in the Nordic countries. And a few years ago, we expanded this total anti-doping program to be a so-called Nordic convention.

5

THE COMMISSIONER: All right.

10

THE WITNESS: Which means that now -- and that Nordic convention is now signed by Norway, Finland, and Iceland, and Sweden. And this means that today any Nordic athlete can be tested at any time wherever in the Nordic countries he or she may happen to be.

THE COMMISSIONER: All right.

THE WITNESS: And then the athlete in question will be tested by the responsible officials in the country where he happens to be.

15

THE COMMISSIONER: I interrupted you.

MR. ARMSTRONG:

20

Q. Let me just ask you this: If, for example, Sweden decides that it wants to test a particular Norwegian athlete, I take it if he is in Sweden or she's in Sweden, you can test that --

A. Yes.

Q. -- athlete?

A. Yes.

Q. What if you decided for whatever reason

that you wanted to test a particular athlete but he lives in Oslo?

A. Well, then it is the Norwegian Federation who does it. And we don't run each other's businesses.

5 Q. Okay.

A. We trust each other.

10 Q. All right. Then, of the 2,000 tests that you did in 1988, I take it that represents all of the athletes that were tested either in competition or out of competition in Sweden?

A. Yes, that's a rough figure, something like 2,000, it may have been somewhat less, somewhat more, I don't have the exact figure.

15 Q. But in any event, the significant figure seems to be that 85 percent of the tests that were done, and, therefore, 85 percent of the resources that are committed to testing, are tests that are done out of competition and resources, therefore, that are committed, 20 85 percent of them, to out-of-competition testing?

A. That's right, yes.

Q. And --

THE COMMISSIONER: Where does the money come from? Who funds it?

25 THE WITNESS: It comes from the Swedish

Sports Confederation who, in turn, gets all its money from the Swedish government.

THE COMMISSIONER: Thank you.

5

MR. ARMSTRONG:

Q. Now, can you --

10

A. I should say, if I may fulfill the answer to your question, sir, the laboratory we have is a joint venture. It is partially paid by these money I referred to, but partially also by the local government who runs the local or university hospitals.

THE COMMISSIONER: Well, it has got more than one purpose, has it?

THE WITNESS: Pardon?

15

THE COMMISSIONER: It has more than one purpose?

20

THE WITNESS: That's right. And that's very important to us. This laboratory is hospital based. It is one of our university hospitals, and it conducts its anti-doping or doping tests within their own program of drug testing in general.

THE COMMISSIONER: Is that an IOC-medically approved laboratory as well?

THE WITNESS: Yes, it is.

25

MR. ARMSTRONG:

Q. All right. Now, could you give us an idea of the range of sports that the 2,000 athletes would represent?

5

A. We have tried to identify where the problems are. And first of all, and not surprisingly, though, we identify the problem to be primarily particularly with the use of anabolic steroids.

10

And then our philosophy told us or said that we have to test for the substances when they are expected to be used. And since the steroids are used as we all know during the training seasons and during the build-up programs, we have to conduct this out-of-competition testing program very vigorously.

15

We also tried to identify those sports who seemed to be particularly effected by experience from this particular group of drugs. And, therefore, I would say that something like 40, 45 percent of those out-of-competition tests have been conducted on weightlifting and power lifting

20

We did start in body building, but body building is not a member of our sports confederation, and, therefore, we can do it only in an agreement with the Body Building Federation. We did have such an agreement for a time, but we don't have it any more. They say they would

rather not like to see us coming at this stage.

5 So, then we went in to -- of course, have for the other 60 percent or so we have distribution. I don't have the exact percentage between track and field, boxing, wrestling, ice hockey quite much, we had have it in handball, soccer to a certain extent. Those are the major sports.

10 So, we don't go into sports where we feel this is not a major problem because we have limited resources.

Q. All right. Now, is it done on a random basis, a targeted basis, or how is the selection made as to who will be tested?

15 A. It is the Doping Commission gives the general or decides upon the general structure of the program. Then the individual testing group --

THE COMMISSIONER: Who is part of that? This is not IAAF?

20 THE WITNESS: No, this is domestic in my country.

THE COMMISSIONER: What bodies govern it?

THE WITNESS: That is the Doping Commission is a body within the Swedish Sports Confederation.

25 THE COMMISSIONER: Right. Is the Swedish Sports Federation appointed by the government?

THE WITNESS: No, it is not appointed by a government. It is actually elected by all our sports federations and our local sports organizers -- organizations.

5

THE COMMISSIONER: But funded by the government?

THE WITNESS: Funded by the government. And we do not have in our country a sports ministry.

THE COMMISSIONER: I see.

10

THE WITNESS: So, the Swedish Sports Confederation and its board is the superior authority of sport in my country. The Doping Commission is a body within that confederation organization.

THE COMMISSIONER: Thank you.

15

THE WITNESS: And the Doping Commission decides upon the general structure of the anti-doping program including the testing, but the actual conduct is delegated to the local groups.

20

Our country is small compared to Canada, but after all geographically it is number four in Europe. So, we have the area to cover as well.

25

And we have 43 groups that are located in different parts of our country, local groups they are, who have a good knowledge about the local sports organization, the local clubs, the local athletes, where the --

THE COMMISSIONER: The 2,000 tests you are speaking of were within Sweden, is that right?

THE WITNESS: Yes.

5 THE COMMISSIONER: Or within the Nordic group?

THE WITNESS: No. That's within Sweden only.

THE COMMISSIONER: What is the population of Sweden?

10 THE WITNESS: Eight-point-five million.

THE COMMISSIONER: Thank you.

15 THE WITNESS: And the local groups decide upon whom to test and when. So, they go on a pure surprise basis to training sites, training camps, to individuals.

20 And we have found it very important to have it delegated to them so that only those people know on beforehand where they would be going. Otherwise, it is amazing how quickly information can pass if it is decided at a high level.

MR. ARMSTRONG:

25 Q. All right. Is there any -- if the Doping Commission in Sweden were to receive information that raised a high level of probability in their minds, a

high level of suspicion even in their minds, that a certain athlete or certain athletes in a particular club were using steroids, could that doping Commission target that particular athlete or that group of athletes and say,
5 "All right, we are going to deal with this problem right now one way or the other. We will do an out-of-competition test on that group."

10 A. If a sort of reliable piece of information comes through which in our mind seems to have some substance, certainly we can do that. And that has happened on one occasion.

15 I can give you one example. We had a smuggling affair in my country of anabolic steroids into the country. We got information as to where those steroids were going. So, we asked our groups, please, go there and see what and pick some athletes and test.

20 The problem here, I may not be allowed to expand too much on it, but the problem here is that very much of the steroid use in my country we have understood is not to be found within the sports organizations, but within the commercial gyms and which are not within our capability or our jurisdiction.

25 Q. All right. Then, your out-of-competition testing program which clearly covers athletes in Sweden, and because of your agreement among

the Nordic countries it will cover athletes from those countries in Sweden, what about athletes, Swedish athletes, who, for example, are on scholarship in the United States or elsewhere? How does your 5 out-of-competition testing program effect them?

A. Yes, that was a major issue we had for some while by -- because we do have, like many European countries, a large number of athletes in the United States high school or colleges. And actually our athletes at 10 home requested that when we started or went into expansion of our out-of-competition testing program, these athletes requested us to go to the United States as well to test those athletes to have not an unfair situation.

So, that we did and have done quite many 15 years now. Sometimes alone, sometimes together with the other Scandinavian countries. And one time even together with Great Britain people.

So, then we simply send a test group over to the United States who appear in a certain spot at a 20 certain time and ask for the athletes and ask them to provide a sample.

This is, as you can understand, not an easy thing to organize because one has to have the athletes available, and it is not sure that they are.

25 And on one occasion even some information

seemed to have leaked through and when we came there, the athletes had be there, but was no longer available. So, there are obstacles and problems on the way, yes.

5 Q. Just one final question about the Swedish out-of-competition testing program. Is there any notification period? Does the athlete have to receive 24-hours notice or 48-hours notice or is it simply unannounced demand made and you supply the sample or else?

10 A. It is both ways. The majority of them of the samples are collected in a total surprise situation all of a sudden at the training site, but we do have the possibility to request an athlete to present himself at a certain time. And that we have done with athletes whom we have not been able to find. And then we send them a 15 registered mail and that way we can sort of get hold of them and test them.

20 Q. All right. Now, Dr. Ljungqvist, I wanted to take you back to the IAAF and the doping rules of the IAAF, and, in particular, those rules that were put before the congress in Barcelona two weeks ago.

And before we get in to those, I have copies of them to file as an Exhibit.

25 THE COMMISSIONER: Well, before you do, I was wondering when did the IAAF itself get into passing regulations re say random testing?

THE WITNESS: We decided at the congress two years ago to -- I have to look at the proper wordings in the old Rule 144 which says that:

"It is a condition of membership of the IAF that a member includes within its constitution

(i) a clause which obliges that member to conduct out-of-competition testing doping control a report of which must be submitted to IAF annually

And (ii) a clause which allows IAF to conduct arbitrary doping control at that members national championships."

THE COMMISSIONER: When was that enacted?

THE WITNESS: It was accepted by the congress in '87.

THE COMMISSIONER: Was it used?

THE WITNESS: It has been used, yes.

THE COMMISSIONER: When?

THE WITNESS: This year.

THE COMMISSIONER: Not before this year, though?

THE WITNESS: Not before this year. We didn't manage to organize for it in '88.

It is -- yes, I need not to tell those

people who know it so well, but it is immensely difficult
really to make these international decisions operate
because the planning is quite elaborate and difficult.

5

10

15

20

25

5 But this year we have been -- and I've got the reports on this, orally -- and partially written -- but we have been to three member federations this year, at their National Championships, without their prior warning, or a very short notice.

10 THE COMMISSIONER: The IAAF has been there on its own?

15 THE WITNESS: Yes. Yes.

20 THE COMMISSIONER: But going back to the national organizations ---

25 THE WITNESS: Yes.

30 THE COMMISSIONER: --- did they all send in their ---

35 THE WITNESS: No.

40 THE COMMISSIONER: How do you police it?

45 THE WITNESS: This was, this was accepted by the Congress in late '87 -- that is, August, September '87.

50 The first year of operation was '88 and we have not yet got our full information from our members as to how and what they have done in terms of out-of-competition testing.

55 We have got from some --- I'm sorry, I am not sure exactly about the figure -- but something like 30 members or so have reported that they do

out-of-competition testing. Some further 15 -- that is my recollection of it -- say that they will be going into out-of-competition testing at the domestic level.

5 But we have not until now -- the decision that is taken in Barcelona -- we have not had the rule which makes it possible for IAF to go to out-of-competition testing.

THE COMMISSIONER: Well, I thought you just read that to me from the '87 rule?

10 THE WITNESS: Yes, that was for IAF to go on arbitrary doping control at the members' national championships.

MR. ARMSTRONG: In competition.

THE COMMISSIONER: In competition.

15 THE WITNESS: In competition, not out of, so that was one of the amendments that was decided upon in Barcelona.

THE COMMISSIONER: Thank you.

20 MR. ARMSTRONG:

Q. And we're going to go through all of these particular rules, but just to complete it, in Barcelona what was added to those two situations was the provision allowing the IAAF to conduct its own out-of-competition testing?

A. That's right.

Q. We'll come to that.

Mr. Commissioner, if I could just take a
moment, I propose to file as the next exhibit this rather
5 lengthy document entitled Barcelona Congress, 1989 ---

THE COMMISSIONER: Thank you.

MR. ARMSTRONG: --- Proposed New Division,
Division III, Control Of Drug Abuse.

THE REGISTRAR: 289, Commissioner.

10 THE COMMISSIONER: Thank you, 289.

15 --- EXHIBIT NO. 289: Document entitled "Barcelona
Congress 1989, PROPOSED NEW
DIVISION, DIVISION III -
CONTROL OF DRUG ABUSE".

20 MR. ARMSTRONG: The first seven pages, Mr.
Commissioner, are explanatory notes as to why the rules
were passed and what they mean and so on. I don't propose
to ---

THE COMMISSIONER: Thank you.

MR. ARMSTRONG: --- get into the
explanatory notes because everybody can read them.

25 I'm not going to, indeed, review every rule,
only particular ones, but I'm going to start at page 8.

MR. ARMSTRONG:

Q. But before I do that, Dr. Ljungqvist, I take it that these rules must have gone the usual route that you have described; that is, that they were considered by your Medical Committee, proposed to the Council, and then at the recent Congress in Barcelona, these rules were presented there?

5 A. Yes.

Q. And is it correct that the rules as we 10 find them in this document were passed by the Congress?

A. Yes, that's right.

Q. In Barcelona?

A. There were some amendments, as you know, made by the Council ---

15 Q. Yes?

A. --- before it went to the Congress. So it would not be correct to say that these set of rules were those that were looked upon by the Medical Committee, because they had been changed to a certain extent afterwards.

20 Q. All right, I understand, and indeed, the last two pages of the document says, "Council Proposals to Congress, Amendments to Doping Rules", and one of those amendments in particular we will be looking at.

Now, are these -- is there anything that remains to be done before these particular rules take effect? Or are they now in effect?

A. They are to my knowledge in effect.

5 And they will be again looked upon and discussed by the Council at its meeting in January.

Q. And what will the Council do with them in January?

A. No, it's just --- that they -- or I may 10 not have explained myself fully clear.

They have been passed by the Congress and thereby it is the IAF rules by now, yes.

Q. I see.

A. And the Council has in January to take 15 the proper action based on these decisions.

Q. I see. To discuss how they are going to be implemented, for example, I suppose out-of-competition testing ---

A. Right.

20 Q. --- would be one matter that they'd be concerned about. All right.

Let's, to put the questions that I have for you in context, look first of all at the definition of doping that is found in rule 55, and it says, first of 25 all, that doping is strictly forbidden and is an offence

under IAAF Rules,

And then in clause 2 you say,

"The offence of doping takes place when
either

5 i) a prohibited substance is found to be
 present within an athlete's body tissue or
 fluids; or
 ii) an athlete uses or takes advantage of a
 prohibited technique;"

10 and can I just stop there.

What is a prohibited technique? I know it's
provided for in the rules but ---

A. Yes, it can be found in the Procedural
Guidelines which can be looked upon as an appendix to
these rules, and there you have on page, on page 11,
15 Schedule 2, Prohibited Techniques, and where it says that
the expression "prohibited technique" shall include, 1,
blood doping, and 2, use of substances and methods which
alter the integrity and validity of urine samples used in
doping controls, and then examples are given.

20 MR. ARMSTRONG: All right. And perhaps it
 might be useful, Mr. Commissioner, if I may file as the
 next exhibit the Procedural Guidelines.

THE COMMISSIONER: Thank you. 290.

25 THE REGISTRAR: 290, Commissioner.

--- EXHIBIT NO. 290:

Procedural Guidelines.

MR. ARMSTRONG:

5 Q. All right, then going back to 289, that

is, the rules themselves, the third situation which defines an offence of doping is an athlete admits having used or taken advantage of a prohibited substance or a prohibited technique, and it says, "(see also Rule 56)",
10 and if ---

Before turning to Rule 56, looking at that clause 2 (iii), under Rule 55, if you look at the top of the next page, Mr. Commissioner, you will see that the proposal that originally went forward was:

15 "For the purpose of these Rules, a statement shall only be regarded as an admission either where it was made under oath or where it was made in writing and signed by the maker",

20 And then, Dr. Ljungqvist, I understand that the Council proposed an amendment to that provision which is found at the second last page of Exhibit 289, and the Council's proposal to Congress read, under the heading
25 Rule 55.6,

5 "An admission may be made either orally in a verifiable manner or in writing. For the purpose of these Rules, a statement is not to be regarded as an admission where it was made more than 6 years after the facts to which it relates."

10 And that is the definition of what an admission is, and that is the definition that was approved by Congress, I take it, Dr. Ljungqvist?

15 A. Yes.

20 Q. All right. I'm going to come back to this provision later, particularly when we deal with the rule relating to world records, but I just want to set this in context.

25 15 Then in addition, Dr. Ljungqvist, to the definition of what constitutes doping in Rule 55.2, we are referred to Rule 56, which is the so-called Ancillary Offences, and doping is further defined as:

20 20 "An athlete who fails or refuses to submit to doping control..." et cetera, is also an athlete who has committed a doping offence.

25 Correct?

25 A. Yes.

25 Q. And then there is also a further definition of doping in Rule 56 at the top of the next

page, page 10, where it says,

5 "Any person assisting or inciting others or
 admitting having incited or assisted others,
 to use a prohibited substance, or prohibited
 techniques, shall have committed a doping
 offence and shall be subject to sanctions in
 accordance with Rule 60. If that person is
 not an athlete, then the Council may, in its
 discretion, impose an appropriate sanction."

10

Now, I assume that that particular rule must be targeted at -- apart from athletes, must be targeted at physicians, coaches and other people who are connected with an athlete who may be involved in assisting him or her to take a banned substance. Is that correct?

15 A. Yes, right.

Q. Now, ---

20 THE COMMISSIONER: Let me ask you this, though. Prior to this rule, I guess you have the same forms, since I've seen that --- if you submit a sample for testing, you're asked what drugs you've taken, say, within three days, because that would affect the test?

THE WITNESS: Yes.

25 THE COMMISSIONER: So suppose somebody had said in that rule -- in that form, I'm taking anabolic

steroids?

THE WITNESS: Mm-hm.

THE COMMISSIONER: Prior to that rule, that would not be a basis for disqualification?

5

THE WITNESS: I'm sorry, I did not fully....

THE COMMISSIONER: Well, prior to the rule the only offence of doping was actually having the substance in your possession?

10

THE WITNESS: Yes. Yes, yes.

15

THE COMMISSIONER: So even on the form -- it's only three days, but if on the form somebody had said, What have you taken and he's said, I've taken any of these anabolic steroids, that person would still go for the tests?

THE WITNESS: Yes. But he would come out positive, I guess.

20

THE COMMISSIONER: Well, he may or may not. Maybe he was mistaken. Maybe he just said, I took anabolic steroids a month or six weeks ago -- told the doping control officer. And the test is negative. Then that would not be doping at that time?

THE WITNESS: In earlier, in the earlier rule, yes, it would not be.

25

THE COMMISSIONER: That's the same as the

IOC rule, apparently, because I asked Mr. Pound. The same rule?

THE WITNESS: Yes.

5 THE COMMISSIONER: All right. Go ahead,
Mr. Armstrong.

MR. ARMSTRONG:

Q. All right. Then I just wanted, Dr. Ljungqvist, to return to the top of ---

10 THE COMMISSIONER: That was sort of a strange rule, wasn't it? That was sort of strange. I was sort of puzzled by that, that up to now the only, the only basis of a doping offence, apart from the banned practices, was actually to have the substance found in
15 your system?

THE WITNESS: Yes.

20 THE COMMISSIONER: And we know, I think now, and I'm sure you do, that so far as that test after competition, for anabolic steroids, that the test has been really quite ineffective?

THE WITNESS: Mm-hm.

THE COMMISSIONER: All right. Thank you.

THE WITNESS: Yes.

25 MR. ARMSTRONG:

Q. Then, Dr. Ljungqvist, just going back to the, what I would call the aiding and abetting section, that is, the assisting or inciting others ---

5 THE COMMISSIONER: Where is that to be found? I missed it, Mr. Armstrong.

MR. ARMSTRONG: Well, on your document, it's at the top of page 10.

THE COMMISSIONER: Page 10? Oh, yes, I have it now, thank you.

10

MR. ARMSTRONG:

Q. Okay.

15 "Any person assisting or inciting others, or admitting having incited or assisted others, to use a prohibited substance ... shall have committed a doping offence...",

and then I am particularly interested in the last sentence,

20 "If that person is not an athlete ..." --- let's assume he is a coach --

"... then the Council may, in its discretion, impose an appropriate sanction."

25 And then we're going to come to the Rule 60,

I believe it is, the sanctions, but the sanctions in Rule

60 all relate really to the eligibility of an athlete to compete.

What is foreseen happening in the case where there is clear evidence, for example, that a coach provided anabolic steroids to his or her athlete? Is there any stated sanction yet ---

A. No.

Q. --- or is that left fully in the discretion of the Council?

Say we have a physician who has prescribed the banned drug to an athlete, what can the sports organization do to his practice as physician? In my country, nothing.

What we could do is to ban that person in the sense that he is not allowed to be a member of the Swedish national team, for instance, and so it must be, so far as we could understand, various types of sanction imposed depending on the situation, what person, and his relation to the sport.

Q. All right. Thank you.

25 Then I want to move along to the

out-of-competition testing Rule 57, and there it says in clause 1,

"It is a condition of membership of the IAAF that a Member includes within its constitution:-

(i) a provision obliging that Member to conduct out of competition doping control, a report of which must be submitted to the IAAF annually..."

10 And you've already told the Commissioner that provision first entered your rules two years ago at the Congress in Rome in 1987 ---

A. Yes.

Q. --- is that correct?

15 A. Yes.

Q. "(ii) a provision allowing the IAAF to conduct doping control at that Member's national championships or any similar meeting; ..."

20 And again you've told the Commissioner that that went into the rule book in 1987.

A. Yes.

Q. A similar provision.

And then finally the 1989 provision, which 25 is clause 1 (iii),

"a provision allowing the IAAF to conduct out of competition testing on that Member's athletes."

I'm going to come ---

5

THE COMMISSIONER: Well, that's the new provision, is it, Dr. Ljungqvist?

THE WITNESS: It is, yes.

MR. ARMSTRONG:

10

Q. Now, let's go back to number 1, if I may, for a moment. You have, we're told, 182 members. 182 countries who are members.

15

And since 1987, how many of the 182 members have in fact been obliged to conduct out-of-competition doping control, or how many have done it?

A. Yes, I'm sorry here that I don't have the full details. I would not tell the truth if I tried to give you some figure here because I have not seen the report from the IAF office on this.

20

What I referred to earlier to, to Mr. Commissioner, was that we did have a report as to how many countries do conduct these things ---

THE COMMISSIONER: Right.

25

THE WITNESS: And that is the report that we had some one or two years ago.

THE COMMISSIONER: Right.

5 THE WITNESS: And to what extent that has expanded I do not know at this stage. But my recollection is that we had some 25 or 30 countries that did this out-of-competition testing, and that some 15 or so said that they were going to start it.

We have to have the follow up to give the proper answer to your question, and I don't have that at hand today.

10 THE COMMISSIONER: Thank you.

MR. ARMSTRONG:

Q. Now, when you say you have 25 or 30 countries, that surprises me as a rather large number. 15 What you must mean, I take it, is that 25 or 30 countries have a plan.

20 I assume that 25 or 30 countries are not yet actually doing out-of-competition testing? I mean, you and the Scandinavian or Nordic countries have had it all to yourself really. Is that not the case?

A. I, I'm afraid you are right. I think this needs some explanation, if I may.

25 I think you need to have here a clear definition of what is out-of-competition testing. And we did not clarify that properly in the, in the questionnaire

that we made earlier on, and we have not identified it clearly at this stage even. We will do it. Because I have understood from the reports I have seen from our member federations that many look upon out-of-competition testing as a -- or many, excuse me, include pretests of athletes before going to major championships as out-of-competition testing.

5 THE COMMISSIONER: I see.

10 THE WITNESS: Which is not my idea of out-of-competition testing.

MR. ARMSTRONG:

Q. No, it's quite the reverse --- I mean, it's really quite different.

15 A. It's really quite different. But yet it is not within the competition.

Q. I see.

A. So, when they screen their athletes.

20 And I have a feeling that, that possibly many -- I don't know how many --- of those countries who claim they have out-of-competition testing programmes, do not have it in the sense we, we -- in the sense we would like it to be, that is, the total surprise, unannounced, training period testing.

25 And so I don't have the accurate figure as

to how many countries do that today.

Q. Well, I wonder if, if we couldn't just get a handle on it, because there are so few of them, it's not that difficult. My understanding is there's Denmark?

5

A. Mm-hm.

Q. Sweden?

A. Mm-hm.

Q. Norway. What about Finland, does it have ---

10

A. Finland, yes.

Q. So the four Nordic countries?

A. Yes. Great Britain has started.

Q. Great Britain started really in April of 1988 --- --- or November 1988?

15

A. Yes. Yes.

Q. They had a little bit in '86, but Britain has got a modest programme ---

A. Yes.

Q. --- under way ---?

20 A. Yes.

Q. --- with great difficulties with their lab because of the back-up, as you know. So those ---

A. Yes.

Q. There are five European countries, four 25 of them being the ---

A. Yes.

Q. --- the Nordic countries, and is there anywhere else in western Europe that ---

A. Yes, I -- yes. As I told you, I am -- 5 we have not put, phrased the question in a proper way, so I would be wrong in trying to answer your question. But if you ask me to --- what I believe, as ---

Q. All right.

A. --- from what I know of other 10 countries, my feeling that France, for instance, at least have started this out-of-competition testing in the sense we have, in our minds. But I don't know the exact figures of the countries.

May I inform you, though, that it seems as 15 though the Soviet Union has started. We have, we have a, a clause, as you know, in our rules which obliges our members to report any positive case they might find in their domestic testing activities. And from Soviet Union we have got reports of positive cases of one positive case 20 during training, of a female pentathlete.

Q. But again, though, you'd have to have more information about that ---

A. Yes ---

Q. --- because what the Soviets regard as 25 training, that may have been somebody who was cleared

before, or attempted to be cleared before a competition and they regarded that test as being thrown up during a training period ---

THE COMMISSIONER: Well, he doesn't know.

5

THE WITNESS:

MR. ARMSTRONG:

Q. But you don't know that?

A. I don't know that. I don't have any
10 information.

Q. All right.

And then, of course, in North America, then,

Canada started out-of-competition training (sic) in track
and field last November, and then -- and in the United
15 States, of course, there is still no out-of-competition
testing.

So would it be fair to say, Dr. Ljungqvist,
that although the rule has been on the books since 1987,
there has only been a very modest start to the
implementation of out-of-competition testing by your
20 membership?

A. As I told you, I am not in position to
answer that question because we, we phrased the question
to our members in the wrong way.

25 Q. All right.

All right, then, I want to move along to the third clause, or clause 1 (iii), provision allowing the IAAF to conduct out-of-competition testing on that member's athletes.

5

Now, perhaps it is early, I don't know, but you're the chairman of the Medical Committee, you presumably have thought long and hard about what the nature and scope of the IAAF's own out-of-competition testing programme is likely to be, and can you do that for us, just assist us as to what the nature and scope of it may be?

10

A. Yes, I, I would be happy, more happy if I had a clear answer to your question at this stage, because we have not structured the out-of-competition testing programme yet.

15

What we wanted by these rule --- by this rule amendment was simply to make our members committed to this principle of out-of-competition testing, and once passed by the Congress, we can go into the details and see how to structure the programme and how to implement it.

20

25

There are many obstacles, as everybody can understand here, and we have made -- had a preliminary look into those problems. Not to eliminate the surprise element, for instance. You cannot go on -- unless there is just a short notice. For certain countries there are

several weeks' wait for visa. That is one example.

One other problem that we have to reach -- to face, is how to reach the athletes. How to make the athletes available, whose responsibility should it be. Is it the member that has to have them -- the athlete available at a certain time on a certain place, or how should that be organized? How to select the athletes to go -- to be tested.

5

And also what, what qualifications do we need for the people who go into various countries to conduct these tests, and one very major problem that we have, and that I think has not been internationally addressed sufficiently, is the lack of laboratory capacity in the world.

10

We have a total laboratory capacity in the world -- well, it's difficult to tell if it is capacity, but the total number of samples analyzed per year in the world is just below 50,000.

15

If going into an out-of-competition testing programme extensive enough to discourage people from the temptation to go into doping with steroids, I feel we need a manifold increase of this capacity. And that is a major obstacle, because in the -- the IAAF cannot create laboratories around the world. These are responsibilities of governments and states and universities.

20

25

So we do have many, many problems that we have to be realistic enough to understand that they are there, and that we have to look into and see what we can do in order to get started.

5

Q. Now, just picking up the point about the capacity of the laboratories, you mentioned that in order to have an effective out-of-competition testing programme world wide, you're going to therefore have to increase many times the number of tests that you do.

10

If I were to take you back to Sweden for a moment, as good as your own out-of-competition testing programme may be, as far as it goes, is there indeed a sense among some people in Sweden that 2,000 tests a year, 85 percent of which are out-of-competition, is enough?

15

A. It is not enough. And that is a general feeling.

20

I can give you one example. I was approached, not long before I went here, by one of our, not top ranked but ranked number 5, 6, shot putter in track and field sport. And he approached me and asked me, When am I going to be tested, I haven't been tested for three years.

25

So if we want to have a programme extensive enough to make the athletes feel that they run a real risk of being tested, my figure for Sweden would be something

like 15,000 tests or even more, and not two. And taking into consideration that the total laboratory capacity today is around 50,000, one can imagine the magnitude of the problem we have here.

10 Q. Now, recognizing the problems about
implementation on the international level of the IAAF
doing its own out-of-competition programme, and I think
we've probably heard most of the problems during the last
several months of this inquiry, it seems like a formidable
15 task, and I just wonder if one of the ways of a country
avoiding having to put in an effective competition
programme may be to say to you, Dr. Ljungqvist, as
chairman of the Medical Committee and President Nebiola as
president of the whole IAAF, Look, we're in favour of it
20 but there is just no way that we can get the visas to let
you people into our country, there is no way that we can
get the resources available to do it, and we can't do it,
and you've got a nice statement in your constitution --
not in your constitution, but a nice statement in your
25 doping control rules that you can show to the world, but

your member countries, if so inclined, may be able to say,
look, it's impossible, we can't do it.

5

10

15

20

25

THE COMMISSIONER: That's a long question.

MR. ARMSTRONG:

Q. It is. I guess it is a speech, I am
5 sorry, but it may be that as a result of all these
problems that you have suggested, that a country may take
that position?

A. Yes, that may be right, but I mean we
have to be realistic. And our program must limit itself
10 to -- be limited for reasons I have mentioned and the
obstacles -- or the problems we have to overcome. But we,
of course, as superior body of our sport, we focus -- have
to focus ourselves on the international elite. And that
might not necessarily require an immense increase of the
15 total laboratory capacity, but what I try to explain is
that any such program which covers only the elite, will
never be efficient in the long run, because we have to
have domestic programs that act deterrent and make the
young generation and the coming athletes feel that it is
20 normal not to take drugs, and if you do it, you will be
caught.

25 But I can foresee, and that I understand is
the question you have in this respect, is that we can get
started in a small scale with the international elite in
our various events.

5 We can, if I may elaborate on that a little, as an example say that we can simply list the top 10 or 15 or 50 of each event internationally on the international ranking list and put them into a computer and make a lottery out of that and test them at random and at various times, and that would not necessarily mean an immense increase, over burden on the laboratory, but it will include the other problems like going to these countries, finding the athlete in proper time without too much prior notice, et cetera.

10

15 Q. All right. Now, recognizing your latter comments that you may still have the problem of a particular country saying sorry, Dr. Ljungqvist, we can't get you the visas or whatever, has the IAAF yet come to the position or do you believe it will come to the position where it will say to the United States, the Soviet Union, or some other country, that you either accept this rule as you do to an athlete, and permit us to do out-of-competition testing of your athletes, or are you 20 not going to compete in IAAF competitions such as the World Championships, the World Cup, and the Grand Prix?

25 A. Quite. That is what I -- that is within the power of the IF council, according to our constitution, that we can expel members who do not abide by our rules.

And that the great achievement, in my view, that was made with this amendment of the rule is that our membership has not committed itself to cooperate with us in making this out-of-competition testing program function.

5

And those who do not cooperate in that will certainly both be reported at the congress and particularly sort of dealt with, but I am not a profit so I cannot put what possible sanction may be taken.

10

Q. All right. Then, I want to move along in the rules that are set out in Exhibit 289. And I am going to skip over Rule 58 other than to simply bracket it to indicate that it sets out the IAAF responsibility for its own meets, and they are listed there.

15

I asked you this morning what an IAAF permit meeting is and you explained to me that that is a meet that is not a Grand Prix meet, but is ranked one level below a Grand Prix?

A. Yes, right.

20

Q. All right. So that the meets that are listed in clause number one are those meets for which the IAAF accepts responsibility for doping control and then in all other cases, the member country at whose territory the meet is being held is responsible.

25

So, that seems to be the nub or the focus of

that rule; is that correct?

A. That's right.

Q. Then I am going to skip over Rule 59 completely which is the disciplinary procedures and go to 5 the sanctions in Rule 60.

And again, for the purposes of Rule 60, doping is defined in the same way as Rule 55 and 56 defined it. And then in clause 2 you say or the IAAF says that:

10 "If an athlete commits a doping offence, he will be ineligible for the following periods..."

And then there is an A category. And in the A category for a first offense for two years from the date 15 of the provision of the sample, the athlete is suspended. And for a second offence, he is suspended for life.

Can you just tell us in general terms what doping agents or substances are covered by the A portion of this clause two of Rule 60?

20 A. The two years ban for a first offence will be for the whole group of anabolic steroids, of peptide hormones, of any prohibited technique or manipulation of urine or masking agent, and for the heavy stimulants, like the amphetamines and cocaine.

25 Whereas for all the others, there will be a

three-month disqualification for a first offence.

Q. All right. And all of the others then are covered by the B portion --

A. That's right.

5 Q. -- of clause 2 of Rule 60?

A. Exactly.

Q. Three months for first offence, two years for second, and life for a third?

A. Yes.

10 Q. All right. Then --

THE COMMISSIONER: Well, perhaps this will be a good time to have our morning break.

MR. ARMSTRONG: Thank you.

15 --- Short recess.

--- Upon resuming.

THE COMMISSIONER: Mr. Armstrong.

MR. ARMSTRONG: Yes, thank you, Mr.

20 Commissioner. And let me just take you to Rule 61, Dr. Ljungqvist.

It provides:

"Every Member shall inform the IAAF General Secretary of any positive result(s) obtained in the course of doping controls carried out

by that Member."

THE COMMISSIONER: I am sorry, what rule is that, Mr. Armstrong?

5 MR. ARMSTRONG: I am sorry, Rule 61, page 15 of Exhibit 289.

THE COMMISSIONER: Thank you. I have it now, thank you.

10 MR. ARMSTRONG:

Q. "These findings shall be considered at the next meeting..." and so on. I assume that as the Medical Committee's Chairman, you probably received such information yourself --

15 A. Yes.

Q. -- from the IAAF General Secretary?

A. Yes.

20 Q. You mentioned this morning that recently you had indeed received a report of a positive test shown as occurring in training from a Russian athlete. And I take it that that would have been reported as a result of a requirement such as this?

A. That's right.

Q. All right.

25 A. And may I add to that that in addition

to that report, we got a report from a Russian athlete found doped at their national indoor championships. So, we have two domestic reports from Soviet Union.

5

Q. All right. Now, leaving aside the Soviet Union, have you ever received a domestic report from the East Germans of a doping offense?

A. I am not sure about that. Not as I can recollect right now.

Q. All right.

10

A. One should say that add, though, that this reporting system has been put into operation quite recently, has been functioning only very few years.

15

Q. All right. And then if I could just go back for a moment to Rule 57 in the out-of-competition testing, rule 1 clause -- Rule 57 clause 1(ii):

"A provision allowing the IAAF to conduct doping control at that Member's national championships."

20

Now, do I have my information correct that recently there were scheduled to be national championships at Czechoslovakia and the IAAF showed up at the appointed or scheduled time only to be told that the IAAF had the wrong date and that the Czechoslovakian national championships had taken place two weeks before?

25

A. I have the same information. I don't

know whether an IF representative went there and turned up or whether that information was given to IF that these championships have been rescheduled and then it was too late anyhow to collect any samples.

5

Q. All right. Then I want to go to page 17 of Exhibit 289 which is the World Records provision. And the first two clauses of that record, I take it, were provisions that have been in the rules before or similar provisions --

10

A. Yes.

Q. -- I assume. I want to go right to clause 3:

15 "Where an athlete has admitted that at some time prior to achieving a World Record he had used or taken advantage of a prohibited substance or a prohibited technique, then, subject to the advice of the Doping Commission, such record will not continue to be regarded as a World Record by the IAAF."

20

First of all so far as an admission is concerned, I take it that "admission" is defined as in the amendment that we find on the next page of Rule 55.6 that is:

25 "An admission may be made either orally in a verifiable manner or in writing. For the

purpose of these Rules, a statement is not to be regarded as an admission where it was made more than 6 years after the facts to which it relates."

5

A. Right.

Q. Now, what was the genesis or the origin of this Rule 148, Dr. Ljungqvist?

10

A. The genesis was that it was raised at an IAAF council meeting earlier this year that when the new package of doping rules were first considered by the council, it was raised in the council what do we do should admissions come up that people have actually taken banned substances but got away with it at doping tests.

15

And the reason, of course, being then that an athlete can simply stop or go over to some other drug, or whatever and come up negative at a particular meeting and yet have been doped. And that is why, of course, dope test at competition will not reveal the actual extent of the use of anabolic steroids.

20

So, therefore, there was a request within the council to the legal advisor of ours to see whether an amendment could be -- could be added to the rule including other evidence of doping rather than just a positive dope test.

25

And, of course, the triggering mechanism

here was the case that has been debated here now for a very long time.

5 Q. Well, I was going to ask you about that. The genesis of the rule really is as a result of the evidence that has come out of this Inquiry, I take it?

A. Yes. It would be wrong to deny that. It showed us that there are other ways of ascertaining a positive for the misuse of drugs than just a positive test.

10 Q. Now, one of the effects of this rule seems to be that if you had a case, as we seemed to have had many cases here, where over a period of years an athlete was taking steroids and that he passed doping control tests, and denied that he took steroids, yet there is conclusive evidence that he took steroids from say his coach or his physician or indeed other athletes, that that athlete as long as he continued to deny himself or herself that he or she took steroids, that if they were a world record holder, according to your IAAF rule, they would still hang on to the world record?

20 A. That would be my interpretation, too, yes.

Q. And putting it in its kindest light, isn't that illogical?

25 A. Well, that is a matter that certainly

you are better to evaluate than I not being a lawyer, but what we -- what has been tried to do here with the rule you recently referred to a verifiable manner is two crucial words, that the admission has been made in a verifiable manner.

5

THE COMMISSIONER: There must be an admission, though?

THE WITNESS: There must be an admission, correct.

10

THE COMMISSIONER: The hypothetical case Mr. Armstrong is putting to you is where the evidence is overwhelming that the athlete or coach or physician continues to deny --

THE WITNESS: Yes.

15

THE COMMISSIONER: -- what he has been doing for years and the record would stand.

THE WITNESS: Yes, it would.

20

THE COMMISSIONER: There is obviously a question of to deal with a world record which is tainted --

THE WITNESS: Yes.

THE COMMISSIONER: -- but the question as Mr. Armstrong put it is the way it's been dealt with here.

THE WITNESS: Yes.

25

5 MR. ARMSTRONG:

Q. Put perhaps putting it in a somewhat unkinde⁵ light, if I may, that the effect of that rule could well be to send out a message to athletes around the world: simply keep your mouth shut and continue to do what you have always done, deny, deny, deny, and there will be no problem, you will continue to have your world record, your gold medal, or whatever it is.

10 A. In theory, of course, yes. What we then hope, though, is to look upon this rule as not standing alone. It is part of our total doping rule package, one important part of which we have recently discussed; namely, the out-of-competition testing.

15 So, for the future, we hope that this hypothetical situation that you give us should not occur.

THE COMMISSIONER: Well, suppose that you get a positive finding now of an athlete in 1989, that wouldn't affect a world record achieved two or three years ago?

20 THE WITNESS: Not as I can see it, because a positive sample constituents a doping offense at that time.

THE COMMISSIONER: Exactly. Exactly.

25 Go ahead, Mr. Armstrong, I think you have covered that.

MR. ARMSTRONG:

Q. All right. And one of the problems at least that it seems to throw up is this, that it will actively discourage athletes from disclosing their own drug problem, and thereby that athlete will not himself or herself be assisted in the solving the problem and the sport as a whole will be denied very valuable information.

5 And so it seems, Dr. Ljungqvist, I suggest to you, in many respects a backwards step and a 10 contribution not to the solution of the problem, but just a further contribution to a very serious problem. What do you say about that?

A. Well, it is a very important question 15 that you raise. And this has, of course, as you can understand, been debated in the council. I gather it was debated amongst the congress delegates as well, but the congress wanted it overwhelmingly this way. I think I am correct in saying so. There were objections to it, but there was an overwhelming majority for having this clause 20 in.

Now, that was not an explanation you were asking for, but that's a statement of the facts.

But on the other hand, I am not so much -- 25 it may be wrong to say this in this particular -- on this particular occasion and under this particular

circumstances, but I am not so worried about the negative effect here that people will not come along and disclose facts as you say because it is very, very rarely if ever happened earlier.

5

THE COMMISSIONER: No, but somebody might want to come forth to help the sport --

THE WITNESS: Yes.

10 THE COMMISSIONER: -- concerned, as you know, it has been said that use of steroids is threatening the whole legitimacy of international competition.

THE WITNESS: Yes.

15 THE COMMISSIONER: And that person may be a steroid user themselves, but then say, okay, I want to tell you about other people. But once the person disclosed their own steroid use, even to assist you in cleaning up the sport, they are going to be penalized because they are admitting it themselves.

THE WITNESS: If they were a record holder, yes.

20

THE COMMISSIONER: All right. And also I think that may be a prelude to other penalties, I don't know.

THE WITNESS: It will be --

25

THE COMMISSIONER: What Mr. Armstrong is pointing out is that if you really want to try to --

because I think in fairness we have had people come forth here against whom there is no evidence at all when we started, who felt it was time to try to cleanup the sport. And in doing so, they have admitted their own steroid use, but assisted the Commission in finding the extent of the use of anabolic steroids which I take it was deemed very useful to your amending all your other rules.

5
10
THE WITNESS: There is, of course, much to say to this. The type of admission that has come through here to me is very unusual. In my experience, we have had very few admissions over the years, although people have come out positive with tests.

15
THE COMMISSIONER: Admissions don't come forth just voluntary. It is as a result of a lot of hard work and investigation and inquiry by staff of the Commission and by Commission counsel.

THE WITNESS: Right.

THE COMMISSIONER: Go ahead, Mr. Armstrong.

THE WITNESS: But --

20
THE COMMISSIONER: By the way, does the IAAF have power to conduct an inquiry?

THE WITNESS: No, not IF, but we always request our members to do so.

THE COMMISSIONER: I see.

25
THE WITNESS: It is within the capacity and

responsibility --

THE COMMISSIONER: You can require a member organization if information comes to your attention --

THE WITNESS: Yes.

5

THE COMMISSIONER: -- to conduct an inquiry?

THE WITNESS: We would ask our member to do it.

10 THE COMMISSIONER: Yes, I mean you would ask the member organization to conduct the inquiry.

THE WITNESS: Yes.

THE COMMISSIONER: You have the authority to do that, do you?

THE WITNESS: They have.

15 THE COMMISSIONER: Do you have authority to require them to do that?

THE WITNESS: Yes.

THE COMMISSIONER: I see.

THE WITNESS: Yes.

20

THE COMMISSIONER: Go ahead, Mr. Armstrong.

MR. ARMSTRONG:

Q. Just following up from your exchange with the Commissioner and your comment earlier that you are not so concerned about the negative effect of the rule

25

as I put it to you because it has rarely happened that
there have been such admissions, but as I think the
Commissioner was really pointing out, the fact of the
matter is that without attempting to sound -- without
sounding immodest, there have not been really any serious
investigations into this issue of anabolic steroids until
an inquiry such as this came along and an inquiry such as
somewhat similar to this came along in Australia in 1988,
and there was a modest start, I suppose, in the United
5 States for a day or so of evidence before the Biden
10 Commission.

15 But other than that, is it not so that none
of the international organizations, either the IOC or the
IAAF, or none of the national federations have really
conducted much by the way of any investigation into the
problem after a positive test?

A. Oh, yes, they have.

Q. They have?

20 A. Yes. I am not expecting you to know,
but I personally made an investigation in 1974-'75 about
the anabolic steroid misuse in track and field athletics
in my country.

Q. Yes.

25 A. And that is reported in British Journal
of Sports Medicine in 1975. That was not, though, on the

basis of a positive test, but on my feeling that something wrong was going on in the sport.

There have been investigations carried out.

We made one, and if I may explain to you one case very briefly, is that okay?

5 Q. Sure.

A. We in our own domestic testing program, we found our top lady sprinter doped at our own national championships in 1981. This was not at an international competition, I repeat. This was we ourselves found her in our own domestic program, and she was number 4 in the 10 Olympic final in Moscow, the cover girl of the Swedish sport. So, it was not a pleasant situation for me, as you can understand, to be looked upon as the bad guy here who 15 caught the darling girl of my country, but that was the fact.

And we carried out an investigation. And it was found out that she had been feeded these tablets from her Finnish coach. And the Finnish coach was dismissed and went into very serious social problems, but that's a 20 different story.

In 1984, the Finnish national hero Mat Vainio was found doped in Los Angeles, as many know. He was then a silver medalist in 10,000 meters. And he 25 denied every contact with the drug until finally under the

social pressure he was put under at home, he had to admit that, yes, I took it. And the investigation carried out found that the national coach was the responsible person, that he was expelled by the Federation.

5

So, this has happened on some few occasions, but not in the way it is conducted here and not with a scope to find more than just that particular case or the circumstances around a particular case.

10

Q. And certainly we are unaware, perhaps you can help us, but there has not been, to our knowledge, any such investigation done say in the Soviet Union or East Germany, which are two of the major sporting nations of the world, is that not a fair assessment?

15

A. No, not to my knowledge either.

20

Q. Certainly in the United States, another leading sporting nation in the world where there is certainly a lot of evidence before this Commission that there is a serious problem with the taking of steroids, there has been virtually no effort to investigate the problem there. Is that not a fair assessment?

A. I haven't seen any report to my knowledge, though. There may be --

THE COMMISSIONER: No, done by the sports federations.

25

MR. ARMSTRONG:

Q. Yes, what about the TAC, for example?

A. Not to my knowledge.

THE COMMISSIONER: All right. I think we
5 have covered that, Mr. Armstrong.

THE WITNESS: Yes.

MR. ARMSTRONG:

Q. All right. Then, I was going to ask
10 you about the arrangements for doping -- I am sorry, I am
going to move away from the rules now and on to another
subject.

I wanted to ask you about what the
arrangements were for doping control in general terms at
15 the 1983 World Championships in Helsinki. And then I had
a particular question to ask you about two particular
cases at Helsinki.

A. In Helsinki in 1983, those
championships were our first world championships ever.
20 And the doping controls during those championships very
much followed the routine that has already -- had already
been applied to the Olympic Games for the track and field
part of the Games.

I was at an early stage appointed by the
25 council as the medical delegate, and Professor Beckett

from England as the medical committee representative, and that is -- that was then ratified by the council who takes the final decision as to who should be there.

5 At a championship of that type, there is a doping committee established, a temporary one, which consists of the medical delegate as chairman, the medical committee representative as one member, and the chief medical officer of the organizing committee as the third member. That was Professor Mattila in this case. So, 10 Mattila, Beckett and myself were --composed the doping committee.

15 In addition, Professor Donike from Cologne was in Helsinki unofficially, not appointed by anybody, but understood and supported by us to be there because this was the first time for the newly accredited Helsinki lab to operate under --

THE COMMISSIONER: Yes.

THE WITNESS: -- large competition.

20 So, he helped them in conducting the analysis.

5 A. And at that time some 200 samples were collected, as is usual in that type of competition, and we found no positive tests. The routine is that the laboratory report goes each day to the medical delegate -- that was me in this particular case -- and I have the code. That means that I know ---

10 THE COMMISSIONER: Who the individual is---

15 A. --- who that particular sample refers to.

20 And say a competition on Monday would yield the result to me on Wednesday, because on Monday evening and Tuesday they would do the analysis and report back late that evening or probably more likely next morning, so this is the routine, and during this time I got all the reports, and I had --- I still have them --- I didn't bring them here because it's a pile like that -- but they were all negative, yes, and I was not terribly surprised.

25 Q. When Professor Donike was here I asked him about some results that yielded a greater ratio than 6 on the testosterone-epitestosterone ratio, and I just want to read you what he said and ask for your comment.

 I asked him the following question in volume 69, page 11,758, for the record:

25 Was there a result in Helsinki which produced a testosterone-epitestosterone

ratio above 6?

Answer: There was produced in two cases such a result in the screening procedure on the A sample, and on review it was decided this should not be regarded as positive and this was done due to the dilute urine.

THE COMMISSIONER: Due to what, I am sorry?

To the diluted urine which had been provided. The Medical Commission of IAAF did not follow up these cases and, as you know, analytical samples on A sample are a different issue than positive case stated on all the information available based on the hearing and based on the test of a second sample.

Do you have any recollection of their having been a positive -- sorry, a recollection of a result such as Professor Donike set out, that is, in two cases a testosterone-epitestosterone ratio above 6 on the A sample, and what was done?

A. Yes. You raised these questions with me earlier this morning. So -- I didn't bring the material here; I could have done it if I had known before it would have come up. Because now after six years it is

difficult for me to recollect the whole thing.

5 But, I mean, what I can reply to this is this, my memory is not that we had a ratio above 6 but that is of no importance, because in the IAAF rules there is no such thing as a limit at a ratio of 6.

We simply say that an elevated testosterone-epitestosterone ratio could be an indication of a testosterone doping.

10 So what you then do, and what we did -- and I remember we discussed one or two cases, but my recollection of it is that the ratio was a bit lower, but as I said, this is of no importance -- we looked into one or two cases and ruled them negative.

15 That is, on the A sample we told ourselves we do not have sufficient evidence here for going further into the B sample, and that is it. And that is a very normal sort of evaluation that you make from the analytical data.

20 THE COMMISSIONER: But the IAAF doesn't recognize the 6 to 1 ratio that

THE WITNESS: No.

THE COMMISSIONER: As the basis of disqualification?

25 THE WITNESS: No. And I may not -- maybe I shouldn't go too much into it, but I was the one who

opposed to this ratio being sort of cut-off limit, because I -- from a purely medical point of view, you can have an elevated ratio for several reasons. Either elevated upper figure or a lower down figure or a combination of the two.

5

THE COMMISSIONER: All right.

10

THE WITNESS: What you have to look into is far more of the details, like what the actual concentration is, is it above normal or not, and what do the other hormones and hormone metabolists look like, so it is really an evaluation.

You have to have very strong criteria, very clear evidence before you go into further investigation of a particular case. And we felt that we didn't have in this case.

15

And finally I should say, had we gone into further analysis of the B sample, any result from that would have yielded nothing. Because had it come out the same way, we would have stood there with the negative cases. Had it come out different, we couldn't act.

20

Because the two samples have to confirm each other.

THE COMMISSIONER: Well, the A sample was tested, you say, and came up negative?

THE WITNESS: Mm-hm.

25

THE COMMISSIONER: Then why did you make your further study at all?

THE WITNESS: We didn't.

THE COMMISSIONER: Oh, I see. You had a recollection, I thought, of ---

5 THE WITNESS: No. No, I'm sorry, I cannot always explain myself fully clear.

THE COMMISSIONER: Oh, no, if there is any misunderstanding -- I thought you said you did recall having a discussion about two samples?

10 THE WITNESS: Two samples, two different athletes.

THE COMMISSIONER: Right, yes.

THE WITNESS: Not A and B. Two A samples ---

THE COMMISSIONER: Two A samples?

15 THE WITNESS: Two A samples.

THE COMMISSIONER: But if they were both negative, what would be the basis for the discussion?

20 THE WITNESS: The basis for the discussion was an elevation of the testosterone-epitestosterone ratio above 1, which is the average figure in the normal population.

THE COMMISSIONER: I understand.

25 Well, you tell me even if that were so, the IAAF would not use that as a basis for disqualification?

THE WITNESS: No.

THE COMMISSIONER: I'm sorry, is that ---

5 THE WITNESS: No, not 6. We don't have a cut-off figure. We make an evaluation of each case.

THE COMMISSIONER: I see.

10 THE WITNESS: And to clarify this further, based on what you're saying, Mr. Commissioner, is that if the Doping Sub-Commission considers the case not to be positive, it does not go at the Council, it stays with the Committee's decision.

15 THE COMMISSIONER: It doesn't go forth unless there is a B confirmation?

THE WITNESS: No.

THE COMMISSIONER: It never goes forth unless there is a B confirmation?

20 THE WITNESS: Exactly, yes.

THE COMMISSIONER: All right, I understand.

MR. ARMSTRONG:

Q. All right.

25 I take it that obviously, from what you've said, there is a clear scientific difference of opinion, then, between the IAAF and the IOC, because the IOC have said that if the ratio is above 6, you're deemed to have taken testosterone and deemed to have committed a doping offence?

A. I think it may have been but I'm not sure it is any longer. I have understood from Dr. Donike that they tend to abandon this 6 figure in IOC as well, but that he should respond to, not me.

5

Q. I see. The rule is fairly clear; you mean in the implementation of the rule ---

A. Mm-hm.

Q. --- they ignore the 6.

A. Yes.

10

Q. --- if they think there is some reason to do so?

15

A. I think there is very clear reason to abandon the ratio. It may be too long to go into details, but there is not sufficient scientific evidence, according to non-sporting scientists, to declare a person positive solely from the ratio.

THE COMMISSIONER: Right.

20

THE WITNESS: And we have a very recent case in my neighbouring country, Norway, where a cross-country skier has been found with a permanent elevated testosterone-epitestosterone ratio endogenously, and that has been checked under controlled conditions in a hospital.

25

THE COMMISSIONER: So it's a natural condition in that case?

THE WITNESS: Right. One has to be very careful here.

MR. ARMSTRONG:

5 Q. So what happens then really is that if you've got an elevated level above 1, or above the 1 to 1 ratio, the normal level, really becomes a medical question, and in order to determine whether or not there has been a taking of testosterone exogenously, you've 10 really got to go into the medical evidence, examine the athlete clinically, and take a medical history?

A. That's right. That's what we do in our country.

15 Q. I see. And would that have happened in 1983 on the two A samples in Helsinki? Would they have gotten the athletes in and said, Look, you've got an elevated level here, whatever it was, and there may be some medical reason for it?

20 A. Yes, I don't know what the Finns did with it --- or if it was Finland --- well, it was in Finland but I don't know even ---

Q. You don't recall ---

A. --- what athletes they were. No, I don't recall.

25 Q. All right.

5 All right, then, moving along to the 1987 World Championships, you mentioned to me this morning that you wanted to say something about what the arrangements were for Rome in 1987 concerning the responsibility for doping control, and whether or not Professor Beckett and Professor Donike were to be involved, and how it came to be that you and somebody else became involved.

10 A. Yes. I am happy, Mr. Armstrong and Mr. Commissioner, to get this opportunity to reject some allegations which made me very unhappy when I was seated in my home. Allegations that I do not accept, as you can understand.

The sequence of events were the following, and I have the documentation here.

15 THE COMMISSIONER: All right.

20 THE WITNESS: The procedures are, as I have explained earlier, that the Medical Committee -- when it comes to the medical delegates and Medical Committee representatives -- proposes representatives to the Council who takes the final decision.

For the World Championships in Rome I was proposed as medical delegate from the very beginning by the Medical Committee, and that was confirmed by the Medical Committee at its August meeting, 1986.

25 THE COMMISSIONER: '86?

THE WITNESS: Yes.

At that time the Medical Committee also decided to propose Professors Beckett and Donike to share the position as Medical Committee representative.

5

This was put forward to the Council at its meeting in January, and the Council confirmed my appointment and decided to replace -- or 'replace' is the wrong word here, I have to be very careful with the word --- and decided to appoint not the proposed two persons but Dr. Mikhaylova from Bulgaria, because the Council has to take other considerations or aspects into account than, rather than just the medical aspects that the Medical Committee is supposed to do. There are political and other arguments.

10

15

I repeat that at the Medical --- excuse me, at the World Championships in Helsinki, I was medical delegate and Beckett was Medical Committee representative and Donike was there.

20

The Council's feeling was that we should spread the responsibility amongst the Medical Committee members and make them feel that they are involved in this very important issue. And again they felt it might be wise on a very important competition like that one not to again have two persons from non-socialist countries.

25

THE COMMISSIONER: Mm-hm.

THE WITNESS: Therefore Dr. Mikhaylova, who is a member of the Medical Committee since many, many years, was decided to be the Medical Committee representative and that was done in January 1987, and the competitions took place, as you know -- was it late August or September ---

THE COMMISSIONER: And your role was what?
Were you the chief --- were you in charge?

THE WITNESS: Yes.

10 THE COMMISSIONER: With the doctor from
Bulgaria as your colleague?

THE WITNESS: That's right.

MR. ARMSTRONG:

15 Q. I did ask Professor Donike when he was here if he knew why he was replaced, and his answer was that he had no information on that point.

And I take it that he wasn't provided with any information or he would have had it?

20 A. I don't know. I waved with my hands
here, it's not appropriate, excuse me. I wanted to give a
fuller explanation.

One must know that this is not a rare thing at all, that the Council decides differently from what the committees have proposed.

I have in front of me the actual proposals from the Medical Committee for the 1987 events and the acts and decisions taken by the Council, and this is not the only change.

5

We can take, for instance, the world cross-country championships whereas medical delegate was proposed, Worobiev from Soviet Union, and as Medical Committee representative, Gee from Great Britain. Worobiev was appointed but Dr. Sowinski from Poland as the 10 Medical Committee representative, and this is a normal, normal thing that happens, and the Council takes the final decision on other grounds than what the Medical Committee may have in its mind.

Q. All right.

15

Then moving along to 1989 and back for a moment to your rules --- give me moment --- looking at Rule 61, that provision that every member shall inform the IAAF general secretary of any positive results obtained in the course of doping control carried out by the member, is there also at the, what you might call a realistic level --- I might call it the practical level --- an arrangement between the IAAF Medical Committee and the IOC accredited labs that if they confirm a positive test, that they report -- in athletics or track and field --- that they report that directly to you?

5 A. No. The normal, the normal way of operation is that the, the accredited laboratory reports back to the, to the body or the person who has delivered -- or who is responsible for the sampling.

10 So what is the term for it, I, I I don't know the terminology here, but when a committee or a person sends a number of samples for analysis like the medical delegate does at major championships, he is the one who gets the report back.

15 Q. All right.

20 A. Not any other. That is the routine. And that is the instruction to the laboratories.

25 Q. And so the laboratories, for example, if there was a positive test in Canada, they report directly back to the Canadian Track and Field Association?

30 A. Yes. If, if they are the body responsible for that particular sampling.

35 Q. Yes. And under your rules of the IAAF, as soon as there is confirmation on the B sample of a positive test, then that athlete becomes ineligible to further competition, is that not so under your rules?

40 A. That's right, yes. Or rather the athlete will become suspended and be subject to a hearing and then a final decision should be taken by the member.

45 Q. And I take it that what is foreseen by

Rule 61, that as soon as an athlete is confirmed to be positive on the B test, the IAAF expects to receive a report?

A. Yes.

5 Q. That the athlete is positive?

A. Yes.

Q. All right.

Now, apparently there are two instances right now, without naming the names, where at the National 10 U.S. Indoor Championships there were two positive tests confirmed on the A and B sample for testosterone at the TAC Indoor Championships, and have those athletes been in fact rendered ineligible or suspended from competition? What is their status according to the IAAF?

15 A. We have not got any report on that from the TAC, but this is not unusual, that rumours are around that athletes are doped and that some -- that member federations do not report further as they should, according to the rules.

20 When it comes to the United States, I have asked the responsible persons in the United States about the procedures they have, and I have understood from them that the TAC, which is our member in the United States, has to respect the legal right of the athlete, of course, based on the legislation in that country. And that means 25

that the athlete will be subjected to a hearing in front of a panel of some kind.

THE COMMISSIONER: Right.

5 THE WITNESS: But what then seems to happen, according to the information I have, is that that particular panel takes the final decision.

10 And in my view, this is not the correct procedure, and I am not afraid of saying so, because I have told my TAC friends, that in my view, TAC as our member has to take the final decision. And the hearing is one piece of information. The positive sample is another piece of information. And it is their responsibility to put all the pieces together and give us the report.

15 And I understood from the reaction that they seemed to agree to that, and I hope they will change their routine.

20 Q. Yet in this particular case, though, the IAAF is already on notice through you that there indeed are two positive tests from the indoor championships in the United States ---

THE COMMISSIONER: Well, how did that come to your attention, though, I don't understand?

THE WITNESS: Well, I ---

THE COMMISSIONER: Or did it?

25 THE WITNESS: I, I have sworn in so I will

tell you, yes.

THE COMMISSIONER: No, you tell me that this is a track meet in the United States?

THE WITNESS: Mm-hm.

5 THE COMMISSIONER: And obviously a sample would be submitted for testing by a doping control officer. It was a national championship, not international?

THE WITNESS: Right.

10 THE COMMISSIONER: So it would be a TAC problem, I guess. And they'd get the report back from the lab?

THE WITNESS: Mm-hm.

15 THE COMMISSIONER: And you wouldn't get that report?

THE WITNESS: No.

But to complete the questions in these particular cases, I became informed about some few cases --- I think it was two ---

20 THE COMMISSIONER: Yes?

THE WITNESS: --- because I had requested -- IAF had requested the accredited laboratories to report directly to us.

THE COMMISSIONER: I see.

25 THE WITNESS: It is not within their duties

to do so and we cannot urge them to ---

5 THE COMMISSIONER: But you have requested that, have you?

THE WITNESS: We have asked them if they would like to do it, and it is up to them to say yes or no, because they -- their responsibility is only to report to the body I explained to you. But this particular report came to me ---

10 THE COMMISSIONER: I see.

THE WITNESS: --- and that is how I became aware that there were two cases, that I wondered what had happened to them, and I got this explanation and the hearing panel released the cases.

15 MR. ARMSTRONG:

Q. I'm sorry, the hearing panel released the cases?

A. That's to my knowledge, yes.

Q. So they won't be acted upon?

20 A. They have not been reported to IAF.

Q. I see.

Then finally, Dr. Ljungqvist, I want to take advantage of your medical background and particularly in the cardiovascular area, in regard to the taking of anabolic steroids, what can you tell us to assist us in

terms of whether there are serious medical side effects?

A. Yes, I can give you some information.

The IAF -- that is, the International Athletics Foundation -- has staged two conferences on doping, as I mentioned earlier -- I think I did --- in 5 1987 in Florence and in 1989 ---

THE COMMISSIONER: In Monte Carlo ---

THE WITNESS: In Monaco.

THE COMMISSIONER: Monaco.

10 THE WITNESS: Yes..

And in both those symposia, reports were given on side effects, as well as other reports. And it seems -- the -- I should first mention that when you want to establish side effects from a certain drug, the proper 15 way to do it is to make what we call prospective double blind studies.

Now, this cannot be done because you cannot give volunteers these drugs in those amounts that are used amongst athletes. So it's ethically impossible. So 20 therefore you have to go by retrospective studies and see what do you find in athletes who have been on these types of drugs.

And it seems as if serious side effects can come up after quite a long time, which is not surprising 25 in itself, because that's how many drugs work, by

long-term action. And in the Florence -- no, excuse me, the Monaco meeting -- and the Florence meeting --- both meetings, actually --- it has become -- well, reports were given of two new major side effects which we have to pay attention to for the future.

5 One is cardiovascular disturbances with depression of the protective cholesterol component, and the athlete run into the risk group -- obtains a risk factor for developing atherosclerotic diseases.

10 Secondly, there were reports, and that was on, on -- in Monaco, that there have come up more and more cases with serious mental problems and psychiatric psychotic diseases which have ended up in mental hospitals -- and we have seen it in my own country as well.

15 These were reports from the United States, where people became severely depressed with suicide fantasies and ideas, some became a maniac and they were very resistant to the usual type of psychiatric therapy. And that was a fair accumulation of cases.

20 I may finalize this by saying that I have come across one single case myself, quite recently, in my own country, and one should not pay too much attention to a particular single case, but yet it is an interesting case report of a young body builder aged 21 who had been

severely depressed over some two, three years, and finally committed suicide and was found with an arteriosclerosis which was beyond belief for a person at that age, and with complete testicular atrophy --- and that is with necrosis, that is, tissue damage, tissue death of part of his myocardial tissue.

5 So there are side effects beyond any doubt, that can be quite detrimental to your health.

10 What we do not know yet is to what extent does this require a so-called premorbid personality. Do you have to have any sort of especial inborn
15 inborn....

THE COMMISSIONER: Tendencies?

15 THE WITNESS: Yes, to obtain these negative side effects or not. We don't know. But we have to keep our minds and eyes very much open.

THE COMMISSIONER: Thank you.

MR. ARMSTRONG:

20 Q. Just one last question.

You mentioned at the break this morning that any drug which involves an interference with the hormonal system is a drug that physicians automatically put a red light beside?

25 A. Sure.

Q. Because that has -- can you just develop that for a moment?

A. Yes. Yes, this is more a basic medical approach to the problem without announcing any serious side effects or whatever, but a basic medical principle is that you should not play with your endocrinological balance.

The anabolic steroids are, after all, mimicking to a large extent the normal hormones in one's body. And once you introduce a hormonal element artificially, you tend to disturb the balance between various types of hormones and releasing factors because they are all inter-related in its balance.

And to disturb that -- well, I would personally never do it, sure. And that is a, a basic medical attitude, I would say, to this whole problem, disregarding any side effects.

THE COMMISSIONER: Thank you.

MR. ARMSTRONG: Those are all the questions I have, thank you, Dr. Ljungqvist. There will be others.

THE COMMISSIONER: Thank you. Mr. Bourque?

I'm sorry, Mr. Clayton, do you have any questions at this stage?

MR. CLAYTON: There was just one area ---

THE COMMISSIONER: You can clean up at the

end, if you like.

MR. CLAYTON: That may be the easiest and simplest way to do it, Mr. Commissioner.

THE COMMISSIONER: Thank you, fine.

5

---- EXAMINATION BY MR. BOURQUE:

Q. Dr. Ljungqvist, my name is Bourque and I represent the Canadian Track and Field Association.

You made a reference, and indeed we have heard other allusions to the doping symposium held in Florence in May 1987 by the International Athletic Foundation.

First of all, I understand that the International Athletic Foundation is an emanation of your organization, the IAAF, is that correct?

A. I don't exactly understand the word, but it is an IAAF attached body, yes.

THE COMMISSIONER: It's a fund raising body?

20 THE WITNESS: Yes.

MR. BOURQUE:

Q. Thank you. And were you present at the May 1987 Florence symposium on doping?

25 A. Yes.

Q. If I may direct your attention to Exhibit 289, which is the doping control rules of the IAAF, and more particularly to Rule 57 at page 10.

5 Paragraph 1, clause 1 is the rule requiring national members of the IAAF to conduct out-of-competition doping controls within their boundaries, their national boundaries, and to file a report annually with the IAAF, and I believe you said that that rule came out of the 1987 Congress which was held in Rome, is that correct?

10 A. Yes.

Q. And was that the first IAAF rule ever to deal with the subject of out-of-competition testing?

A. Yes, I think it was.

15 Q. And does that rule embody a multi-lateral approach requiring all member nations to do it and ---

A. Yes.

Q. --- do it at once?

A. Yes.

20 Q. And may I ask you, did that rule have its genesis in the Florence symposium in May 1987?

A. Yes, it had. To, to a large extent, yes.

25 Q. And can you tell me if any one member nation, any one member federation of the IAAF was

instrumental in bringing that rule forward or the thought behind it?

5 A. Yes. I remember this very well because this was a request from the Canadian group. I remember Dr. Doug Clement raised this question with me, first unofficially during a break, and later on officially, towards the ends of the meeting, and I remember supported by many, many representatives in the room.

10 And it came out as a request to IAF to institute some sort of out-of-competition testing and this was the first step, yes.

15 Q. When you say the Canadian group, to be more specific, are we referring to a resolution or request brought forward by the Canadian Track and Field Association?

20 A. Yes, but to be very correct here, at those symposia, one does not necessarily represent a federation. Our federations are invited to be present with suitable persons, and that was what happened. So -- but this is a formal sort of comment, I think, because ---

Q. Right.

A. --- because it was, it was voiced and --- by the Canadian people there, yes.

25 Q. And do you remember any of the others besides Dr. Clement?

THE COMMISSIONER: Well, you can help him if you like.

MR. BOURQUE:

5 Q. Yes, do you remember Bruce Savage?

A. I think, yes.

Q. Casey Wade?

A. Could be.

Q. Denis Landry?

A. I don't know.

10 MR. BOURQUE: All right.

THE COMMISSIONER: You went too far, you see.

15 MR. BOURQUE: Yes. No further questions, having gone that far.

THE COMMISSIONER: You were doing great with the first two, a little hesitant on the third, and you lost the fourth.

MR. BOURQUE: I'll bat 500 any day.

20 THE COMMISSIONER: Any other questions?

Mr. McMurtry?

MR. McMURTRY: I think I'll be a few minutes with this witness.

THE COMMISSIONER: All right, you go ahead.

25 MR. McMURTRY: I wonder if we might just

change places because there are a few documents that I
will ---

MR. ARMSTRONG: Why don't we --- you're
going to have a hard time with that mike.

5

THE COMMISSIONER: Move Mr. Armstrong
across.

MR. ARMSTRONG: It's easier for us to move.

THE COMMISSIONER: You stay where you are,
Mr. Clayton.

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MR. CLAYTON: All right.

THE COMMISSIONER: Mr. McMurtry?

MR. McMURTRY: Thank you, Mr. Commissioner.

15

--- EXAMINATION BY MR. McMURTRY

Q. Dr. Ljungqvist, we've heard from other
witnesses, and I think you've corroborated this to some
extent by yourself, that in the last four or five years
there are very extensive records available as to the
20 testing that has gone on with respect to various athletes,
indeed, thousands of athletes.

20

25

And in this relation, we have heard from Dr. Donike, for example, that he believes very strongly in looking at the endocrine profile of athletes and in order to have a sense of the magnitude of the problem.

5

And Dr. Dugal of the Montreal lab stated in evidence that he would be able to produce an endocrine printout of every sample tested by his lab in the last four or five years.

10

And I assume, sir, that you are aware of all of this?

THE COMMISSIONER: Is that a question now?

MR. McMURTRY:

15

Q. Yes, I am just wondering -- I am asking whether he is aware of the factual basis of the questions I am going to ask with respect to this, what I might refer to as an enormous amount of historical data that is now available in these various labs, and given Dr. Donike's evidence as to the importance of these profiles. Are you 20 aware of that?

20

A. Well, I am aware of that there is research going on as to the so-called -- whether the so-called hormone profile could give any information whether people may have used doping substances or not.

25

Q. Well, what I am interested in is

your -- is the IAAF doing any research with respect to all of this information that is available with respect to these profiles of many thousands of athletes to measure the extent of the problem that obviously exists in the world today?

A. Well, IAF as such is not a competent body to conduct research. You have to have researchers to do it.

Q. Yes.

And for your information, I can tell you
that IAF decided shortly before the Barcelona congress to
allocate \$50,000 to Professor Donike's various types of
research, not in this particular field possibly, but to
his research in doping analysis.

Q. Yes, but surely your organization involving so many nations could certainly put together the resources that would allow the independent or the experts to do very significant research in this area. And I would just like to know why it has not been done?

A. Well, as I told you, there needs to be researchers to do the work.

Q. Yes, but --

A. But the IAAF people are not

researchers.

Q. Well, I am obviously aware of that, but I am suggesting that if you people were serious about regulating and in monitoring this situation, that given the historical data that your related bodies have already accumulated, that it would be very logical to bring together to fund a major research project to assess the degree and the magnitude of the problem?

A. Well, I try -- I think I tried to tell you that we do fund research projects whenever reasonable and good research projects come up. And we do fund scientific conferences with the aim to improve the testing procedures and the scientific -- to make better understanding, to make us better understand the scientific background in the whole field.

I think actually if we should go into that, we probably are the only Federation who does this sort of funding, with four medical congresses, two of which are solely devoted to doping, with \$50,000 allocated to Donike for his research with 50,000 more dollars allotted to South America to create their own laboratory.

So, I don't know what else you could ask us to do.

Q. Well, I am suggesting you are doing relatively little, that given the historical data that is

available -- I mean we heard from Mr. Dugal --

MR. CLAYTON: Mr. Commissioner --

THE COMMISSIONER: All right, he is almost finished. Thank you. That is argument now, Mr.

5

McMurtry.

MR. McMURTRY:

Q. I would suggest if you were serious about this, you would launch a major international research project, and you might also at the same time consider some major international inquiry made up of member countries to attempt to accomplish internationally what this Commission is trying to accomplish for Canada and for the international track and field world?

15

20

A. Let me first comment on one thing. We are serious - I am serious. And I am very used to being in research council boards. I know that we have to have the proper people to conduct the research. And we as a research board of fellows support good research after having evaluated the character of the research project. And I would welcome any research project to improve the doping tests around the world. And I would argue for IAF to go on supporting those projects.

25

Q. I would like to turn to, as part of the international challenge, we have heard a good deal of

5 evidence about the situation in the -- as described generally Communist countries, the Eastern European countries. And I think it would be fair to say that the sporting policy within these countries would be to a very large extent dictated by the governments of those countries given the nature of their societies. Is that correct?

A. Well, I am not a specialist in this field.

10 Q. Well, I think with your knowledge of the -- I think you must be one of the most knowledgeable people in the international athletic track and field world?

15 A. I have very great difficulties in commenting on how the socialist countries have structured their sports organizations --

THE COMMISSIONER: He doesn't know, Mr. McMurtry.

MR. McMURTRY: Well, I mean, I think --

20 MR. CLAYTON: Mr. Commissioner, we are here as a doping expert, and we have given our evidence in that area. I don't think that Mr. Ljungqvist is here to start throwing stones at other countries.

25 THE COMMISSIONER: No, I agree. We have been trying to avoid that.

MR. McMURTRY: He is a Vice President of the IAAF and Chairman of their medical committee.

THE COMMISSIONER: Let's confine ourselves with the IAAF.

5

MR. McMURTRY:

Q. I am interested, for example, it's been widely publicized, for example, that Dr. Hans Noscinski, a former member of the National Olympic Committee of the German Democratic Republic, now living in West Germany, has said to his knowledge every East German -- every --

THE COMMISSIONER: That's a newspaper report.

15

MR. McMURTRY:

Q. -- every athlete that competes internationally for East Germany is doped, every one. And I am sure this information has come to your attention and that this was corroborated by another former member of the GDR Olympic committee, Dr. Auschenbach. Are you aware of this?

A. I have heard those rumours, yes.

Q. Yes. What does the IAAF intend to do in order to truly assess the degree of the problem in some of these Eastern European countries?

5 And I might say before I ask -- that you are reflecting on that, I draw to your attention that the official Communist youth magazine, Zmena, has, with the new climate in that country, has reported about the ship, the Soviet ship that was off the coast of Korea with the chromatology lab to test athletes prior to the Seoul 10 Olympic Games, the fact that the 1986 European championship, the 400 metre sprinter, Maria Piningina, was -- the authorities in Moscow asked her to pull out of the European championships in 1986 because of the results 15 of the pre-competition testing.

 All of this information would be, of course, known to your organization.

15 THE COMMISSIONER: Just a moment.

 MR. CLAYTON: Mr. Commissioner --

20 THE COMMISSIONER: I think the question that's being put to you is, Doctor, is there a machinery in the IAAF so to monitor these reports and to require some further investigation about them. I think that's what Mr. McMurtry is asking you about.

 THE WITNESS: No, it is not. I mean we, IAF is not a --

25 THE COMMISSIONER: This is a member association, and what is being asked of you, and I am not --

THE WITNESS: Yes.

THE COMMISSIONER: -- these reports may or
may not be true.

THE WITNESS: You are right.

5 THE COMMISSIONER: But if you get
information from people who apparently have had quite a
high position in East Germany, who go public on the
statement like that, is there machinery to inquire into it
to see whether it is true or not?

10 THE WITNESS: No. There is not for the
simple reason that IAF is not a police force.

THE COMMISSIONER: I asked you earlier
whether you can request member countries to make an
inquiry, not your own inquiry?

15 THE WITNESS: That we can. That we can.

THE COMMISSIONER: All right.

THE WITNESS: But we cannot ask them to act
or we cannot act ourself unless there is some solid
information on which we can base some action. Only simple
20 allegations thrown around --

THE COMMISSIONER: Here is a report of
somebody who was apparently an authority, he may not be
right --

THE WITNESS: I haven't seen this report.

25 THE COMMISSIONER: I see. You don't know

it --

THE WITNESS: No, no. The newspapers I read quite a lot and there I often find these types of allegations, but that is not a report.

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THE COMMISSIONER: Well, I meant that nobody inquired -- it may or may not be true, I realize that.

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THE WITNESS: Yes.

THE COMMISSIONER: But I was just wondering whether it would be appropriate to have within your organization someone who could make further inquiries to see whether there was any legitimacy of the report and then require at least a member nation to investigate it, but I gather you don't do that unless something comes to you like formally to the attention of the IAAF?

THE WITNESS: That's right. We can ask our members to -- according to our rules, to make further investigations into established doping cases and find out the circumstances around --

THE COMMISSIONER: I understand. I think we have that, Mr. McMurtry.

MR. McMURTRY:

Q. Well, just a final question with respect to that. Dr. Noscinksyi and Dr. Auschenbach, who

had latterly been a former five-time world champion, are both living in West Germany, and do your organizations in view -- does your organization in view of these press reports intend to follow up with these gentlemen to assess the extent of the problem that exists in Eastern Europe?

5

A. Not to my knowledge.

Q. Don't you think it would be a good idea?

A. I don't know. I don't know. We have to have some sort of documentation as to what to investigate. We cannot act, and I repeat we cannot act solely on hearsay and rumours.

10 Q. Well, it is not hearsay or rumours when a very prominent former East German official makes a public statement that is reported in almost the entire world press. And you are telling me this is not enough to act on?

15

A. No.

THE COMMISSIONER: All right.

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MR. McMURTRY:

Q. It is rather ironical, and I am not going to pursue or belabour the points that Mr. Armstrong made about this policy of stripping athletes of their records because of their honest admissions, and you have

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heard the evidence of Mr. Richard Pound, the Vice President of the International Olympic Committee and what he thought of the backwards step that you people had taken, but don't you think it is rather ironical, for example, that the Canadian athlete, Angella Issajenko, who was a -- who had, I understand, a 50-meter indoor world record, came here and told the truth, and that she's been stripped of her record and the record will go to an East German athlete.

10

I mean don't, you think given what we know about the policy in East Germany that this has to be just absolutely --

MR. CLAYTON: That's total argument.

THE COMMISSIONER: That's argumentative.

15

MR. McMURTRY: No, this gentleman is in a very significant position to influence policy in the world track and field scene today. And I suggest that it is a proper line of questioning.

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THE COMMISSIONER: Just a moment. Mr. Clayton.

MR. CLAYTON: This line of questioning is a clear example as to the problems of dealing with simple innuendo and rumour and suspicion. It has no beginning and it has no end and it goes on forever.

25

THE COMMISSIONER: I think, Mr. McMurtry,

if this is argumentative --

5 MR. McMURTRY: It is not simple innuendo or
suspicion. It is facts that are on the public record.

10 THE COMMISSIONER: Mr. McMurtry, we have
covered the fact that the IAAF does not respond to that
type of report. I mean, right or wrong, we have the
answer. So --

15 MR. McMURTRY: It is difficult to imagine
what they would respond to.

THE COMMISSIONER: Please, Mr. McMurtry --

MR. McMURTRY: But --

15 THE COMMISSIONER: Let's -- just ask
questions, the witness here is to respond to them, and I
am here to see that no improper questions are submitted.

20 MR. McMURTRY:

Q. Well, I would like to turn to two
events that Mr. Armstrong referred to. And one was the
TAC.

25 THE COMMISSIONER: Perhaps we should do
that at 2:15.

MR. McMURTRY: Yes.

THE COMMISSIONER: That would be an
appropriate time.

25 MR. McMURTRY: Yes.

THE COMMISSIONER: We will adjourn until 2:15.

MR. ARMSTRONG: Could I just interrupt?

THE COMMISSIONER: Yes.

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MR. ARMSTRONG: Could I persuade you, sir --

THE COMMISSIONER: At two o'clock.

MR. ARMSTRONG: -- to sit at two o'clock because I promised Dr. Ljungqvist that I would get him on a plane that leaves Malton at five o'clock.

10

THE COMMISSIONER: All right. Well, two o'clock will be fine.

MR. ARMSTRONG: All right.

--- Luncheon recess.

15 --- Upon resuming.

THE COMMISSIONER: Mr. McMurtry.

MR. McMURTRY: Thank you, Mr. Commissioner.

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MR. McMURTRY:

Q. I think we are very interested, Dr. Ljungqvist, as to the model that has been established in Sweden with respect to detecting the banned substances. But in that context, we had the evidence of a prominent West German television sports personality by the name of

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Mr. Heller. I think he said that he had met you, but I don't think it really matters, but he was commenting on the problems in relation to the international scene generally.

5

And in his evidence, he stated:

"And it is amazing to see that for example Swedish discus thrower, Ricki Bruch, who has earned a lot of money telling stories to the journalists about his experience with anabolic steroids is not on the list there.

10

I was surprised very, very much when I checked the list, because in the scene he had the nickname anabol-mountain and you can imagine what it means."

15

THE COMMISSIONER: What list was he referring to, Mr. McMurtry?

MR. McMURTRY: The list of people who had been detected for the use of banned substances.

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MR. McMURTRY:

Q. And are you familiar with this athlete?

A. Oh, sure, yes.

Q. And according to Mr. Heller's evidence.

He has never tested positive?

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A. Yes, I think no. Moreover, though, he

more or less finished before we went in to our expanded out-of-competition testing program. I mean, he was in his peak around mid seventies.

5 Q. But he was still competing into the eighties, I understand?

A. Well, that depends on what you mean with "competing".

Q. He was -- I see, okay.

10 THE COMMISSIONER: Participating, not competing.

MR. McMURTRY:

Q. Participating. But, he never detected positive then --

15 A. No.

Q. Now, turning back just to what Mr. Armstrong was asking you about the American indoor championships, February the 24th of this year, you were made aware that there were two tests or two athletes that 20 might have tested positively?

A. Yes.

Q. And I believe a gentleman who made you aware of this was Dr. Donald Catlin --

A. Yes.

25 Q. -- the head of the UCLA medical lab?

A. Yes.

5 Q. And he communicated this information to you?

A. Yes, to -- yes, that's right, yes.

10 Q. To the IAAF. I think you told us that he was not required to do that?

A. No, like I said, the IAF asked the accredited laboratories to mail their analysis directly to IF as well. And they are not obliged to, according to the code of ethics, and the rules of the laboratories. Some do, some don't.

15 Q. But you never heard from any other American officials?

A. No.

20 Q. And I suggest -- I mean it was clear, clear that Dr. Catlin wanted your organization to have this information or he wouldn't have communicated it to you?

A. Well, as I said, we have asked the laboratories to communicate.

25 Q. Well, when he communicated this information to you, and to our knowledge -- well, I think you have already given evidence to this, that their committee did not accept these tests as positive tests?

A. Uh-huh.

Q. Was that the end of it so far --

A. Yes.

Q. -- as you are concerned?

A. At this stage, yes, because this
5 information from the laboratory came quite recently to me.
It is recent event. And I raised the question with, as I
think I said earlier, with a TAC representative in IF and
got the explanation that the hearing panel had
investigated the cases. And they never were reported to
10 IF.

Q. I mean I assume this would be of some
concern to you?

A. Of course.

Q. And this surely would be worthy of
15 further discussions between your organization and the TAC?

A. Yes.

Q. Because, I put it to you, Doctor, that
Dr. Catlin was reporting this information to you which he
was not obliged to because he probably simply didn't trust
20 the TAC.

THE COMMISSIONER: That's not fair. We
don't know, Mr. McMurtry, why Dr. Catlin did it. I think
Dr. Ljungqvist has said he requested several IOC
accredited labs to submit the information to them. Some
25 do, some don't. Obviously, Dr. Catlin --

MR. McMURTRY: But in any event --

THE COMMISSIONER: Excuse me -- obviously Dr. Catlin was aware he had given this information to the IAAF.

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MR. McMURTRY:

Q. And Dr. Catlin would be hoping at least that you would be taking some further action with respect to this?

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A. I don't know what he was hoping for.

He gave me the information.

Q. Well, he expected you would act upon it because if we go back to the TAC meet in June of 1907 --

THE COMMISSIONER: When?

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MR. McMURTRY:

Q. 1987.

THE COMMISSIONER: That's a little bit better.

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MR. CLAYTON: 1987, that's too early.

MR. McMURTRY: Did I say 1907? I am sorry.

THE COMMISSIONER: I don't want to go back that far.

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MR. McMURTRY:

Q. 1987, that Dr. Catlin had referred another positive test to you with respect to a discus event?

5

A. I -- that I don't remember, no. He may or may not, I don't know.

Q. You have no recollection of that?

A. No, no.

Q. Now, when your -- the position that you are taking that -- with respect to this testing nationally, insofar as the TAC reporting or not reporting these tests to you, what would appear to me that you are relying somewhat on what might be described as the honor system in English expression?

15 A. Well, I don't know the English, the proper English terminology here, but --

Q. But you know what I mean by a "honor system"?

20 A. I think I know. And my reply to that would be that it is understood in a Federation like the international track and field federation, I believe other federations as well, that you have to have some sort of mutual trust in your membership, and certainly not distrust.

25

Q. Are you aware of the fact that publicly

at the TAC annual meeting in the fall of 1988 that the representatives of Turner Broadcasting publicly expressed their concern to the TAC about the damage that any more positive tests would do to the television contract?

5

A. No.

Q. Are you not aware of that?

A. No.

Q. Now, going back for just a few moments, Dr. Ljungqvist, to 1983 and Helsinki and the First World Championships that you spoke of this morning, I just -- 10 you have already explained it to us that the IOC ratio of six to one had not been accepted as of that time by the IAAF?

A. Never has been accepted.

15 Q. It has not been up until this date, all right. And what was the criteria, then, that would lead to a positive test in the judgment of those who were given that responsibility?

A. It would be a combination of 20 information obtained from the analytical data like the ratio between testosterone-epitestosterone, like the ratio between testosterone and luteinizing hormone, like the absolute concentration of testosterone. And all these pieces put together would possibly lead us into one or 25 other conclusion.

Q. So, they weren't a precise set of criteria?

A. No, it is an evaluation of each case.

Q. So, it is a subjective evaluation?

5 A. I wouldn't say that. It is quite objective data, though, but the final decision is based on the evaluation of what these data mean.

10 Q. And is there any possibility for any independent review of that procedure on behalf of the athlete?

A. With -- I don't understand this question.

THE COMMISSIONER: Only if the athlete found -- if he is disqualified.

15 MR. McMURTRY: Obviously, yes. I mean I --

THE COMMISSIONER: There is a process of appeal, isn't there? There is a process of appeal?

THE WITNESS: Oh, sure.

MR. CLAYTON: Are you referring at the 20 time?

MR. McMURTRY:

Q. Yes, because I am suggesting there is a good deal of subjectivity in those tests. And I was 25 wondering if an athlete tests positive and is

disqualified, whether there -- whether the athlete would have an opportunity to have any independent experts review the same information?

5 A. Yes, that's right. In IAAF, although I am not sure what the situation was in '83, but we certainly -- we certainly have a system in the IF constitution which include -- includes an arbitration panel. And this means that an athlete who is not satisfied with a decision, or not just an athlete, could even be a member, member Federation, not satisfied with the decision taken can appeal to the arbitration panel.

10 Q. This is made up of people, other individuals?

15 A. It is made up of -- it is in our rules quite clearly.

THE COMMISSIONER: Under 59(iii), I think is what I see. Is that the one?

THE WITNESS: Yes, arbitration panel.

THE COMMISSIONER: Well --

20 THE WITNESS: It is described in our rules.

THE COMMISSIONER: All right.

25 THE COMMISSIONER: It must be the -- yes, I am reading --

THE WITNESS: Page 72 in the rule book. It is the Rule 19 which describes the arbitration panel, its

composition and nomination.

THE COMMISSIONER: It is in the rules here, too.

5

MR. McMURTRY:

Q. Well, now, with respect to Mr. -- Dr. Donike's evidence with respect to the two tests that he believed were above the IOC level at least, that we have heard about here, can you assist us as to who had access 10 to these samples -- to this A sample?

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5 MR. McMURTRY: Can you assist us as to who had access to the, to this A sample?

A. The laboratory?

10 Q. Yes. The people in the laboratory, of course, but I meant to say who of your officials would have access to that information?

A. What information?

Q. As to the athletes ---

15 THE COMMISSIONER: What example are you using?

20 MR. McMURTRY:

25 Q. I'm talking about the two tests that Mr. Donike referred to in his evidence in Helsinki in 1983. I was wondering who, outside the lab technicians insofar as the IAAF were concerned, would have access to what you referred to as the code, to the identification of the two athletes?

A. The, I think the identification of the athlete would be only me, as medical delegate.

20 Q. Yes.

25 A. The information from the laboratory goes, as I explained earlier, to the doping committee set up for that competition, which is composed by the medical delegate, the Medical Committee representative and the senior medical official of the organizing committee.

Q. Yes?

A. And what was the body that looked into all reports that came from the laboratory.

5 THE COMMISSIONER: You weren't part of that body?

THE WITNESS: I was chairman of that body.

THE COMMISSIONER: So you reviewed it then, did ---?

10 THE WITNESS: Yes.

MR. McMURTRY:

Q. But you were the only individual who knew the identity of the athletes?

A. That's right.

15 Q. And the committee would only have the ---

A. Yes.

Q. --- information but not the code ---

A. Yes.

Q. --- as to identify the athletes.

20 And I think you've told us you don't recall what -- why the committee arrived at the decision not to treat these tests as positive tests?

25 A. No, I mean, they were not positive. That was the decision by the doping committee. And that decision is final from that point of view. So it was, it

was not -- there were no cases.

Q. All right. And I think Dr. Donike told us that his recollection of the event was that they were not regarded as positive because they were too diluted?

5 A. Well, that I don't know. I'm sorry, I cannot remember the reason six years back.

What I can tell you is that they were regarded as not positive cases, and then they were finished with.

10 THE COMMISSIONER: That was the A sample too, you've told us?

THE WITNESS: The A sample only. And we did not proceed with the B because there was no reason for doing it.

15 MR. McMURTRY:

Q. Well, are you familiar with an article that was written by a Norwegian journalist by the name of Jan Hedenstad H-e-d-e-n-s-t-a-d, about, about the World Championships in Helsinki in 1983, and about these tests?

20 A. No. I, I have no idea.

Q. You've never seen ---

A. Well, I don't know, if you show me, I can say whether I have seen it or not.

Q. Well, I have ---

25 THE COMMISSIONER: I'm not in the habit of

allowing newspaper articles unless they are
authenticated ---

5 MR. McMURTRY: Well, just if it might
refresh his memory, because this was the subject matter --
I don't want to necessarily introduce the newspaper
article as an exhibit, subject to -- I am quite prepared
to, of course, but subject to ---

10 THE COMMISSIONER: No, I don't, I don't
allow, I don't allow ---

15 MR. McMURTRY: But it just might refresh
the witness ---

THE COMMISSIONER: Well, just, just give
him the quotation that you want to put to him.

20 MR. McMURTRY:

Q. Well, I have what the article as it was
originally ---

(Handed to witness)

A. Yes.

25 Q. --- appeared ---

A. I have seen it.

Q. Pardon?

A. I've seen it. Oh, dear. I see many
things.

25 THE COMMISSIONER: Well, what does it say?

I don't think you should just read articles in unless ---

5 MR. CLAYTON: I don't know what we're talking about here.

THE COMMISSIONER: I don't know, either.

10 MR. McMURTRY: Well, the -- no, the....

THE COMMISSIONER: It's not our practice ---

MR. McMURTRY: This, this, this ---

15 THE COMMISSIONER: Excuse me, it's not our practice, Mr. McMurtry, to, to put ---

MR. McMURTRY: This is an article --

20 THE COMMISSIONER: --- newspaper articles which may or may not be accurate.

15 MR. McMURTRY: I wanted to first of all ask the witness whether he was familiar with the article.

25 THE COMMISSIONER: He says he's seen it.

MR. McMURTRY: And obviously from his response he's very familiar with the article.

MR. McMURTRY:

20 Q. The article obviously, I put it to you, caused a certain sensation in certain circles?

A. Right.

25 Q. And this article was written in August 15th of 1983. Very close to the event.

And I realize that we're six years later,

we're somewhat further from the event, and the point I'm trying to make, Mr. Commissioner, is given the notoriety in relation to this article which the witness is familiar with, I would have thought that at least in August of 1983 he would be searching his mind as to the reasons for not regarding these tests as positive tests.

5 THE COMMISSIONER: Well, is there a quotation from Dr. Ljungqvist in the article?

MR. McMURTRY: Dr. Ljungqvist is ---

10 THE COMMISSIONER: Is there a quotation from him?

MR. McMURTRY: It is not a quotation. He is referred to in the article.

15 But the point that I'm making, given the notoriety surrounding the article in 1983, which -- at a time in which the World Championships in Helsinki were a relatively recent event, I would have thought that this witness, in reviewing his own memory, would at that point have had a very good recollection as to what occurred.

20 THE COMMISSIONER: Well, ask him.

MR. McMURTRY:

Q. And I am asking, given the sensationalism related to that article, whether it's accurate or not, it would certainly have caused you to

search your memory as to exactly what happened ---

A. Mm-hm.

Q. --- in those World Championships in 1983.

5

THE COMMISSIONER: Well, ask him that.

MR. McMURTRY:

Q. Yes, and you've agreed.

A. Yes.

10 Q. And then on the basis of that, I'm just wondering why you can't tell us more about those first two samples --- or those two samples?

A. No, I think, Mr. Commissioner, I have told what I know.

15 THE COMMISSIONER: He has told us.

THE WITNESS: And I repeat, excuse me, there were -- and I say one or two, I stay with that, because my recollection is not precisely two, and I think I said earlier one or two.

20 THE COMMISSIONER: Yes.

THE WITNESS: That we discussed in the doping committee and found this: we have no basis to go further with it.

25 And the, the A sample was -- samples -- or this A sample, was regarded as negative. That's it.

Now what you have ---

5 MR. McMURTRY:

Q. It wasn't regarded by Dr. Donike as
negative?

A. Well, I, I don't know what his opinion
on this is, but the doping committee composed of myself,
of Dr. Beckett and of Dr. Mattila regarded it as negative.

10 THE COMMISSIONER: Let me ask you this.
There was no metabolytes of steroids detected, is that
what you're saying? Was it the profile that you're
concerned about?

15 THE WITNESS: No, this is difficult for me
to answer six years afterwards, what the exact reasons
were ---

THE COMMISSIONER: I see.

20 THE WITNESS: --- my, my first
impression -- and I repeat -- is that if you look at the 6
ratio as magic, this in my memory was not 6. It was below
6. So even IOC would have regarded them as negative.

25 Now, what you showed me --- and I, may I
comment on this, because that --- the headlines in the
newspaper you showed me were sensational to such an extent
that I gave -- I approached the journal in question and
said, There is no, no basis in what that particular

newspaper had written, because nobody had any information on any code.

Nobody could trace any sample in the Helsinki championships to any particular athlete, because no code was ever broken, and I had all the codes.

5

MR. McMURTRY:

Q. You were the only one ---

A. Yes.

Q. --- who could have identified that

A. Yes.

Q. Who was prominently displayed in this article?

A. Yes.

Q. So naturally it would be ---

A. Yes.

Q. ---- of concern to you?

A. Sure.

Q. But Mr. Donike, in his evidence, was asked at page 11,758 this question by Mr. Armstrong:

Was there a result in Helsinki which produced a testosterone-epitestosterone ratio above 6?

Answer: There was produced in two cases

25

such a result in the screening procedure on the A sample, and on review it was decided that this should not be regarded as positive, and this was done (sic) to the dilute urine.

5

Now, Dr. Donike seems to have quite a good recollection of this and he testified under oath that it was in excess of the 6 to 1 ratio.

10 THE COMMISSIONER: But he said , he said it was decided not to treat it as positive, though.

15 THE WITNESS: I think, Mr. Commissioner, I would have been very happy had I been informed about the fact that this issue would be brought up, because I think I still have the reports from the laboratory at home in my files. And my recollection is not the one you mention here, that they were ratios of 6 or above.

20 THE COMMISSIONER: As I understand it, in your view, anyway, even with 6, it would not be a basis of disqualification?

THE WITNESS: Right.

MR. McMURTRY:

25 Q. So, in any event, I assume from your evidence you're clearly stating that the tests had nothing

to do with the identity of the athlete?

5 A. Mm-hm. The laboratory never knows what athlete it is.

Q. But you knew?

10 A. No, I know when, when I open the code. But I don't open the code unless there is a positive A sample.

15 THE COMMISSIONER: I'm sorry, I don't understand. Until there is a positive sample, a confirmation of the B sample ---

THE WITNESS: No ---

THE COMMISSIONER: When do you open the code --- oh, after the A sample has proved positive?

15 THE WITNESS: The procedure is the following ---

THE COMMISSIONER: I think we've heard it.

THE WITNESS: This is important, I think, to make it fully understandable.

20 Should an A sample show a banned substance, the athlete and his federation has to be informed.

THE COMMISSIONER: I know, that's when you open up the code and find out who the athlete is and notify everybody for the B sample?

25 THE WITNESS: Yes. But if there is no indication or no reason to alert anybody because the A

sample is regarded as negative ---

THE COMMISSIONER: Then you don't open the code?

THE WITNESS: I don't open the code.

5 That's ethics in this mechanism.

MR. McMURTRY:

Q. Well, I mean, Dr. Donike is a close associate of yours and an ethical gentleman, and yet he seemed to have a pretty good recollection about, notwithstanding the diluted aspect of the sample, that it was above the 6 to 1 ratio.

10 Would that not have led you to open the code?

15 A. No.

THE COMMISSIONER: No, no, no.

MR. CLAYTON: Mr. Commissioner, we have been over this a number of times and I object to the phrasing of the question of Dr. Donike as a ethical 20 individual. It's almost as if this witness is being called upon to comment on the ethics of Mr. Donike ---

THE COMMISSIONER: I understand.

MR. CLAYTON: The question can be asked without ---

25 MR. COMMISSIONER: I think you've covered

it thoroughly, Mr. McMurtry.

MR. McMURTRY:

Q. Well, in any event, there were no
5 positive tests in Helsinki in 1983?

A. Right.

Q. Which, as you know, was a matter of
some astonishment in the view of Mr. Richard Pound, one of
the International Olympic Committee vice-presidents?

10 A. Yes, I am astonished that he is
astonished.

Q. You're astonished that he is
astonished. Well, I may be astonished that you're
astonished that he's astonished.

15 Well, I guess this doesn't lead us very
far ---

THE COMMISSIONER: We can't carry on that
way, there'll be no end to it, you see.

20 MR. McMURTRY:

Q. No.

Just one final matter. We heard evidence
about the recent IAAF meeting in Barcelona, and Mr. Paul
Dupre, whom you know, gave evidence with respect to the
25 delegates to that important meeting -- I think he referred

to it as a historic meeting -- being presented with amendments with respect to the rules only on their arrival in Barcelona.

5 And is that correct, that the delegates only received these significant rule amendments on their arrival in Barcelona?

A. I don't know. I don't know exactly when all the delegates got there. I had it at an earlier stage.

10 Q. Yes. Well ---

A. But if they have said so, I think they are right. I don't know.

Q. Well, I mean, you're a member of the Executive Committee ---

15 A. Yes.

Q. --- of the IAAF?

A. Yes.

Q. I think -- what did you say, there were some 15 members, 16 members on the Executive Committee?

20 A. Yes.

Q. And can you tell us when those rules were agreed to, amendments were agreed to by the Executive Committee?

25 A. The final amendments were agreed upon at the meeting in Barcelona. The final amendments.

And before that I -- we had a meeting in January, we had a meeting in --- where are we -- we had a meeting in April, and we had an extra meeting --- not the Council, but some people met in July.

5

I don't know exactly at what stage the -- I know that the basic, the basic documents were circulated in accordance with IAAF rules, the proposed package of new doping rules.

It may be that some -- it is sure, I believe, that some amendments were added later and I don't know, I have to ask my Canadian friends, if so, when they actually got those.

Q. Well, they have already given evidence ---

A. Okay.

Q. --- that they received them on their arrival in Barcelona.

The Canadian delegation, we've already been told, was concerned about the significance of some of these rule changes, particularly the retroactivity.

And I mean --- surely, this is a very recent event, really very recent event, Dr. Ljungqvist, and I would think you would have pretty good recollection as to when the Executive Committee agreed to recommend those specific rule changes?

A. I think it was in July.

Q. In July?

A. Yes.

Q. And ---

5 A. I think, I think it was an extra meeting -- I may, may be wrong here, but I think it was the extra meeting in the July, after which the amendments were circulated to the Council for approval. And finalized in the office, after that.

10 Q. So in July you had these amendments and yet the Canadian delegation and others were told -- the evidence is, did not receive them until their arrival in Barcelona?

A. Well

15 Q. And, and the evidence we've heard also was that those amendments were rushed through the morning, the morning of the first day of the meeting.

THE COMMISSIONER: Well, this was the meeting of the Congress, was it?

20 THE WITNESS: Yes. That is the Congress.
What is the question?

MR. McMURTRY:

Q. Well, I'm suggesting to you -- I mean, how many nations are members of your Congress?

A. I think we are now 180, with one or two additions. Present in the, or registered in the Congress in my memory was 107.

5 Q. And given the fact that these rule amendments were agreed upon in July, I'm suggesting to you that the fact of the matter is that the IAAF is really in reality run by a very small clique of countries?

A. I, I don't know the question here. I don't see a question ---

10 THE COMMISSIONER: Well, you might ask him is it run? You're expressing your view and

MR. McMURTRY: Well, I assume I'm entitled to some latitude with respect to cross-examination.

15 THE COMMISSIONER: Well, you're certainly getting it.

MR. McMURTRY: Well, I hadn't come here with any other purpose in mind, I can assure you, Mr. Commissioner.

20 THE COMMISSIONER: No, but ---

MR. McMURTRY:

25 Q. But I am suggesting to you that the rule changes that were basically agreed upon in July by the Executive Committee and yet not made available to the delegates until they arrived in Barcelona would suggest to

the ordinary person that the IAAF is being run by a small clique of people?

5 A. There is one very important aspect of this, in my view, and that is that any member or delegation in the Congress has the right to raise a point of order if they are not satisfied with the way in which matters are dealt with and prepared. There was no such point of order raised.

10 Q. Well, Mr. Dupre, as as I read his evidence, and I won't take the time to read it back, he said the rules were --- he said:

15 "It was quite late in the morning, I think that a number of delegates were hungry for...lunch, and the president of the Association just put it to consensus and general applause. So instead of the usual, usual question, 'Those in favour please signify', it was, 'Do we generally agree?'", and the witness, clapping his own hands, said,

20 "Primo led the charge.

"And basically that is how it was, it was put to... --- on...the record and I guess this is a historical moment. But that's generally speaking how it...occurred."

And then he went on to say, he thought --
"Well, there was a vote later upon return
because -- well, tremendous confusion arose.
80 percent of the people who applauded
thought we were breaking for lunch."

5

And that was his evidence.

THE COMMISSIONER: Well, now that you've
put it to him, what is the question?

10

MR. CLAYTON: What is the question?

MR. McMURTRY:

Q. Do you recall that? Do you that
being ---

15

A. Yes.

Q. Do you recall those ---

A. But I have no ---

Q. --- as the circumstances ---

THE COMMISSIONER: No, what's the question?

20

Was there a question, Mr. McMurtry? Does he agree with
that?

MR. McMURTRY: Well, I was putting this
scenario to him as to the meeting where the Canadian
delegation, obviously, as they have given evidence here,
did not feel that these rules --- first of all, they felt

that they should have been circulated before the meeting because there were some very significant matters to be dealt with, and secondly, they felt, to use an old Canadian expression, as I read the evidence, that these rules were really railroaded through?

5

THE WITNESS: But I did not run the meeting.

MR. McMURTRY: Those are all the questions I have, thank you.

10 THE COMMISSIONER: What was your answer? Was there a question, Mr. McMurtry? Don't leave me yet. We've got a question?

MR. McMURTRY: Well, the witness doesn't appear to be either agreeing or disagreeing ---

15 THE COMMISSIONER: Well, give him a chance ---

MR. McMURTRY: --- I'm quite content to leave it at that ---

20 THE COMMISSIONER: --- well, give him a chance. You didn't ask him, I don't think. Does he agree ---

MR. McMURTRY: Well, I asked -- I suggested to him, and I thought I put it very clear, that this Association, of which you're a vice-president ---

25

THE COMMISSIONER: You've asked him that

question ---

5 MR. McMURTRY:

--- is, is run by a small clique of people
and that was demonstrated by the recent events in
Barcelona?

10 THE WITNESS: I did not run the meeting,
and anybody in the hall participating in the Congress can
raise a point of order.

15 MR. McMURTRY: Well, we've heard Mr.
Dupre's evidence.

THE COMMISSIONER: Thank you, Mr. McMurtry.
Mr. Clayton, have you any re-examination?

15 MR. CLAYTON: Are there any other
questions, Mr. Commissioner?

20 THE COMMISSIONER: No other questions, no.

MR. CLAYTON: There are just two areas that
may be of some assistance, Mr. Commissioner.

25 --- EXAMINATION BY MR. CLAYTON:

Q. Dealing first of all with the
suggestion raised by Mr. McMurtry about the wealth of data
that may be available for the endocrine tests, can you
tell us first of all what has happened with the original
samples that were taken? I take it they are not still

available?

5 A. No, the normal routine is that once the laboratory become informed that the samples are no longer needed they get rid of them, because they cannot store samples over years and, moreover, they may disintegrate, so the routine is they are gotten rid of.

10 Q. Now, the tests that are performed on samples and which are then reduced down into paper and results and so on, what happens to that material?

 A. The -- what material?

15 Q. Any of the reports of the testing that's performed on any of the samples? Is there data available from that, that is still here?

 A. Oh ---

20 THE COMMISSIONER: Is the data still available?

 THE WITNESS: I would say yes, those -- you mean that seem to indicate the positive and --- yes.

25 MR. CLAYTON:

 Q. That is still available?

 A. Yes.

 Q. Are the codes still available to tell us whose test results we are looking at?

 25 A. No, they wouldn't be. Because if a

sample is regarded as positive, the code for that sample is broken, and the athlete identified already after the A analysis, as I explained.

5 Whereas if there is no A, or indication for an A sample --- from an A sample to go to a B sample, the code and everything is got rid with (sic).

10 Q. One other area that goes away back to the questions Mr. Armstrong was asking you about the programme in Sweden, and what you were doing for collecting of samples, and I think you mentioned that the collection is done by local people in a local area?

A. Yes.

15 Q. Is there a reason why that is delegated out to the 43 or the 49 areas that you have referred to?

20 A. Yes, the reason is that the element, vital element here is to make the tests that really work as surprise tests. And therefore you have to have local knowledge about where to find the athlete or the athletes or group of athletes. And local people know that. They know where the clubs are, where the training sites are, even where the individuals are.

25 So therefore they go at short notice or no notice at all, actually -- they simply decide themselves that tonight or this afternoon we go here or we go there and collect samples.

So in our system, therefore, although our country is fairly small, we have 43 such groups stationed round the country who have a good local knowledge.

5 Q. And as far as the remuneration for these individuals, are they on staff or are they volunteers, recruited in some way, or a stipend?

10 A. Most of them are volunteers. A large proportion are medical personnel who do this on a, an ideal -- sort of, they work for it because they feel it is important to do this, quite as volunteers, and they got only some very minor honorarium and their expenses paid.

15 Q. And do you see some attempt to match or mirror that organization to the world situation in order to perform this out-of-competition testing?

20 A. Yes, I think that is the way to do it for us. To try to identify people or groups of people 'round the world who have as good knowledge as they can about their area and what is going on in their area, and so I, I would say the Swedish system could work in some sort of what's the word, the

Q. Modification?

A. Model for it.

25 MR. CLAYTON: Thank you, those are my questions.

THE COMMISSIONER: Mr. Armstrong, any

re-examination?

5 MR. ARMSTRONG: Yes, just a couple of points to clarify.

Q. First of all, Dr. Ljungqvist, in what we have marked as Exhibit 290, the Procedural Guidelines, if you can just take that for a moment, turn to page 9, schedule 1. I just wanted to clarify this.

10 I take it, just to refresh my memory and perhaps others, that these were presented to the Barcelona Congress meeting and passed there?

A. That's right.

15 Q. Now, I note that if you look at schedule 1 and the listing of prohibited substances, part 1, A, lists anabolic steroids, and there appears to be an old familiar list that we have seen before, I think, and last on the list is testosterone and chemically or pharmacologically related compounds, and the testosterone has an asterisk, and then the definition that again we've 20 seen before:

25 The definition of a positive depends upon the following: The administration of testosterone or the use of any other manipulation having the result of increasing the ratio in urine of testosterone-

epitestosterone,
and the words "to above 6" appear, and they are crossed
out ---

A. Yes ---

5 Q. --- and perhaps you'd just better, for
clarification of it, tell us ---

THE COMMISSIONER: Oh, I see.

MR. ARMSTRONG:

10 Q. --- why those words are there and why
they are crossed out?

A. Yes, I'm grateful to you for having
given me the opportunity to clarify this. This is a
simple misprint but it's very understandable because ---

15 THE COMMISSIONER: That's the way it
appears in the IOC ---

THE WITNESS: Exactly, and I told the IAF
staff that we should structure our list in the same way as
IOC does, and by mistake then they printed the whole,
20 including this. But this was corrected in the Congress
and, as you --- and I notice that Paul Dupre ---

THE COMMISSIONER: This was struck out at
the Congress?

25 THE WITNESS: It's struck out in the
Congress, and as you see in our old Procedural Guidelines,

the list is the correct one without the ratio, and it should be -- so this is a misprint for administrative --- error.

THE COMMISSIONER: Thank you.

5

MR. ARMSTRONG:

Q. Then just one further point of clarification, and I perhaps just missed it sitting behind Mr. Clayton and I didn't get it.

10 The urine samples themselves after an IAAF meeting --- and let's assume there is a negative result on a particular -- on a whole series of samples -- are they thrown out immediately or disposed of immediately?

What ---

15 A. Yes.

Q. --- happens to them?

A. That is the normal. Once the laboratory gets the message that the case --- that the urine samples did not lead to any further action, the 20 laboratory is entitled to throw them away.

Q. All right.

A. I remember to, to fulfill this completely, because it may be of some confusion to some people, that Donike and possibly others have made a 25 restudy of some samples.

Of course there is ongoing research in the IOC accredited laboratories and sometimes those people, including Donike and I believe also others, often request from accredited laboratories to retain the samples so that they can make further studies on them in order to improve the methods and in order to do research.

But the normal procedure is that once the samples were processed, reports given and they are negative, they are, they are thrown away.

Q. Now, just following that up, there was a Grand Prix meeting in Zurich in August of 1988 ---

A. Mm-hm.

Q. ---- I take it that's a Grand Prix meet, is it?

A. Yes, it is, yes.

Q. And that would therefore be an IAAF sponsored meet at which the IAAF was responsible for the doping control?

A. Yes.

Q. And we know that in February of 1989 Ben Johnson's sample from that meet, or some of Ben Johnson's sample from that meet which produced a negative result, that apparently was still available because Professor Donike sat where you sit today and produced the printout of further tests which he had done on Ben

Johnson's sample in February of 1989.

Now, was that unusual, was Johnson singled out somehow or were there other samples kept from the Zurich IAAF Grand Prix meet?

5 A. There is, there is nothing in our rules or Procedural Guidelines that tells how to proceed with the samples once they are analyzed. It is up to the laboratory to do whatever they want. Because they have no clue as to who is who and what sample belongs to what 10 individual. So they are fully entitled to do or conduct any further research if they so wish ---

THE COMMISSIONER: Well, no, they know whose sample it is on a B sample?

THE WITNESS: Pardon?

15 THE COMMISSIONER: When it comes to a B sample, don't they know who it is?

THE WITNESS: No, I mean if the A sample comes out negative ---

20 THE COMMISSIONER: I see, but on a positive test they wouldn't know?

THE WITNESS: On a positive test they have to proceed with the B sample.

THE COMMISSIONER: They would know whose it is then.

25 THE WITNESS: Then they would know because

the athlete is entitled to be present during the B sample procedure ---

THE COMMISSIONER: On a negative they wouldn't know, I see.

5 THE WITNESS: No, exactly. And I understood your question that you want to know is there a ruling or is there a routine or is it usual that the samples are retained. I am not in a position to say either yes or no because it is entirely up to the 10 laboratory to decide what to do. We don't object if they throw it away. If they want to conduct further studies, that's fine.

MR. ARMSTRONG:

15 Q. The obvious question is thrown up in this particular case as to how the lab would have, six months later, or whatever it is, have been able to pick out Ben Johnson's sample which had originally tested negative and provide it to Professor Donike in those 20 circumstances, if the identity of the athlete disappears and in the ordinary circumstances the urine sample simply disappears?

25 A. Yes. I am not in a position to tell you because Professor Donike has to respond as to how he may have been able to, to identify that particular urine

sample. It may be that he, he was medical supervisor. I don't know. I mean, there are several possibilities.

Q. Were you aware that he indeed had Ben Johnson's sample ---

5

A. No.

Q. --- from Zurich?

A. No. I remember there was a discussion after the several incidents, whether one could find a sample from an earlier occasion, and then it was reported 10 that Johnson had been tested in Zurich, and I remember also having -- the discussion I heard amongst people that they, it would be of some interest, if possible, to identify that sample and analyze it. But that's where I lost track of it.

15

20

25

5
MR. ARMSTRONG: Those are all the
questions I have.

THE COMMISSIONER: All right. Thank you
very much for your assistance for coming over here from
Sweden. We appreciate your contribution. Thank you.

10
MR. ARMSTRONG: If I may just ask you, Mr.
Commissioner, if we could have a short break so that I can
organize ourselves for the next witness.

THE COMMISSIONER: All right. Just let me
know when you are ready.

15
MR. ARMSTRONG: Thank you.

THE COMMISSIONER: Thank you.

--- Short recess.

20
--- Upon resuming.

MR. ARMSTRONG: Yes, Mr. Commissioner, our
next witness is Kenneth C. St. Germain.

THE COMMISSIONER: Who is he?

25
MR. ARMSTRONG: I sometimes wonder.

KENNETH ST. GERMAIN: Sworn
--- EXAMINATION BY MR. ARMSTRONG:

25
MR. ARMSTRONG: Thank you, Mr.

Commissioner.

MR. ARMSTRONG:

5 Q. Mr. St. Germain, you were born in the
City of Timmins, Ontario, and that's where you spent your
early years?

A. Yes, sir.

Q. Attending schools in Timmins?

A. Yes, sir.

10 Q. I understand that in 1966 you started
your career as an officer in the Royal Canadian Mounted
Police?

A. Yes, sir.

15 Q. And apart from the last ten months when
you have been seconded as an investigator to this
Commission, you have been with the Royal Canadian Mounted
Police continually since 1966?

A. Yes, sir.

20 Q. And looking at some of the highlights
of your career as a Royal Canadian Mounted Police officer,
you were seconded in 1979 to the drug section in Sarnia,
is that correct?

A. Yes, sir, I was.

25 Q. Then in 1986, you were seconded to the
Toronto drug section where you were when we spirited you

away last October; is that correct?

A. I was in Toronto drug section and I went to Federal Enforcement Section after the Economic Summit, and then I was seconded by you.

5 Q. All right. And so far as drugs are concerned, you have been involved as an investigator-manager in the drug area for something like 17 years, is that correct?

A. Yes, sir.

10 Q. And your experience in drug work in Canada extends to such cities as Montreal, Winnipeg, Regina, Calgary, Edmonton, Vancouver and, of course, Toronto, Sarnia?

A. Yes, sir.

15 Q. And indeed a number and most of the major centres in Ontario?

A. Yes, sir.

20 Q. And then apart from Canada, your experience in drug investigation and management of such investigations has taken you to the United States to cities such as New York and Chicago?

A. Yes, sir.

25 Q. As well as you have been involved in investigations taking you abroad from the North American continent to London, England; is that right?

A. Yes, sir.

Q. And I understand that you have appeared not only as a regular police officer providing evidence from drug investigations in Canadian courts, but you have indeed been qualified as an expert witness in courts in Ontario, Quebec, and Manitoba in regard to the drug trade in such drugs as heroin, cocaine, LSD, metamphetamines and all forms of cannibus drugs?

A. Yes, sir.

Q. And then apart from your responsibilities that I have just covered that are drug related, in 1985-86 you were assigned by the Royal Canadian Mounted Police to the Air India Task Force, a very important investigation investigating that tragedy of the Air India crash off the coast of Ireland in June 1986?

A. That's correct, sir.

Q. And other responsibilities have included an assignment as the Operational Support Coordinator in regard to the security task force provided for the meeting of the Economic Summit in Toronto in June of 1988?

A. Yes, sir.

Q. And as I have already indicated, you have been assigned to this Commission as one of its investigators since October 31, 1988, and you are still

with us?

A. Yes, sir.

5 Q. All right. Now, as a part of your responsibilities as an investigator attached to the Commission, you have investigated in a general way the nature and extent of the market in Canada for anabolic steroids, is that so?

A. Yes, sir.

10 Q. And in that regard, you have been assisted by three of the investigators in the Toronto Commission offices: Walter Greczko, Gary McQueen, and Donald Willett; is that correct?

A. Yes, correct, sir.

15 Q. And you have also been assisted in your work in this regard by the investigators of the Commission attached to the Montreal office earlier in the life of this Commission, and those officers being, or those investigators being, Mr. Pierre Dross (phon) and Mr. Jacques LaFrance; is that correct?

20 A. That's correct.

Q. Now, in carrying out your investigation of the nature and extent of the steroid market in Canada, did you speak to the people who actually used steroids or to people who actually used steroids, such as athletes and 25 other individuals whom we have heard about from time to

time who avail themselves of the use of steroids?

A. Yes, sir, I have.

5 Q. And including speaking to athletes of which we and others here know you have talked to a number in Canada, have you also talked to athletes from other countries including the United States, the continent of Africa, and continent of Europe?

A. Yes, sir, I have.

10 Q. In your work and investigation of this question, have you spoken to people who actually sell steroids in gymnasiums and elsewhere?

A. Yes, we have.

Q. Have you spoken to physicians, doctors, who have sold steroids?

15 A. Yes, sir, I have.

Q. And have you spoken with and talked to representatives of drug companies?

A. Yes, sir, I have.

20 Q. And also have you spoken to and talked to other police officers both in the Royal Canadian Mounted Police and other police forces?

A. Yes, sir.

Q. And finally, have you spoken with law enforcement officials in the United States of America?

25 A. Yes, I have.

Q. Now, I am going to ask you about what you have learned concerning the nature of the market principally in Canada, but also in other parts of North America.

5 And I first of all want to ask you who are the consumers, if I can use that word, of steroids in Canada according to the information not only that we have thrown up from here from time to time -- perhaps that's not the best way of putting it, not according to the 10 information we have led in the evidence here from time to time, but in your own investigation, have you been able to confirm what we have led here in evidence and who are the consumers?

15 A. Yes, sir. We have found that certainly it is being used by body builders, weightlifters, and power lifters. We have run into almost every sport there is, athletes in almost every sport. We have determined that there is some use in professional sport.

20 A lot of the people that are working out in gyms, not necessarily body builders, but people that are simply there trying to get in shape or looking cosmetically better.

It is being used by high school students. It is being used by various professions: Policemen, 25 firemen, and I guess you would have to say the yuppie

element that we have in Canada and the United States. It is being used by a lot of young professionals for cosmetic reasons.

5 Q. All right. And I take it when you say high school students then, not only high school students who are athletes and are taking the drugs for performance enhancement, but also high school students who simply want to take the drug in order in their view to have a better physical appearance?

10 A. Yes, sir.

Q. Then insofar as the sources of these drugs are concerned, and when I say these drugs, I, of course, am directing my attention to anabolic steroids, what about the sources from outside of Canada, how do they 15 get here and from where?

A. Well, we have found that basically a large amount of them come from the United States, specifically the west coast. There was a large supply out of Ohio, Florida, Puerto Rico, was another area that's 20 been touched on.

Mexico is a large source country because there is no restrictions really on them. South America and Europe.

Q. All right. And what about within 25 Canada itself? Again, during the course of the Inquiry we

have led much evidence as to some of the sources that prevail in Canada, and to some extent your evidence will be a repetition, but it would be, I think, useful for the Commissioner and for the record of this Commission to have 5 it all in one place.

And building on both the evidence that we have heard here and from your own investigation, what do you believe to be the main sources for the distribution of steroids within Canada?

10 A. We found basically that almost every -- well, every gym in Canada is a source of anabolics, either legitimate or counterfeit. Legitimate sources from doctors, veterinarians. Mail order was very big in Canada in various parts of Canada. And manufacturers, legitimate 15 manufacturers of the drug.

Q. All right. Now, taking the gyms for a moment, when you say virtually every gym in Canada, I take it there would be more than one classification, that is there might be a gym owner who was totally unaware --

20 A. Yes.

Q. -- that steroids were being sold in his gym or distributed from his gym. In fact, there might well be a situation where the gym owner was an active opponent of the use of steroids and the sale of steroids, 25 but nevertheless in some instances it may be that those

people who use the gyms may use them as a base from which to distribute steroids. Is that a reasonable statement to make?

5 A. Yes, sir, we classify some of the gyms. Some of the gyms the owners are supplying, some of the owners are involved in the distribution.

10 In some cases, the owners are -- may be unaware or opposed to it, but there are also people employed by the gyms that may be an instructor or so on that is supplementing his income by trafficking in steroids.

15 We also have the member that is attending a gym who becomes known to other people in there that the steroids are available through him.

It is not necessarily the fact that it is actually taking place in the gym, it may be the contact is made, and the supply is somewhere at a secondary location.

20 Q. All right. And when you say that doctors are a source of distribution, again without naming names because that would be unfair and the area of regulation with respect to doctors clearly false within other people's hands, but could you give us some indication as to, in very general terms, what happens at the physician level so far as the distribution is concerned?

A. In some instances, the physician is prescribing the steroids for individuals. And in some instances it is strictly a matter of cash sale to the individuals by the doctor.

5 Q. And are doctors who are in that kind of a distribution part of a market, are they -- did you find they were confined to Toronto or did they exist in other parts of the country?

10 A. No, sir, we found them in other regions of Canada.

15 Q. Then you mentioned the veterinarians as a source of steroids. Again, can you just in general terms, without in any way naming names or getting into that, what does the -- that part of the market look like in general terms?

20 A. Veterinarians can order steroids from suppliers, it can -- a veterinarian really is supposed to see an animal it is administering steroids to or it is going to be administered to. In instances, there have been cases where someone has gone in and purchased the drug over the counter from a veterinarian by giving a set of circumstances regarding a sick animal.

25 There is also veterinarians that we know of that have associates and are diverting the steroids to the individual saying it is going to a horse or something and

it ends up in a gym.

Q. Let me ask you about the mail order segment of the market that you mentioned. How in general terms does that appear to work?

5 A. Someone has an operation and will advertize either through weightlifting periodicals or by word of mouth.

Q. Body building magazines, I suppose?

10 A. Yes, exactly, or will attend some of the shows, body building shows, or weightlifting shows and it gets around that a certain individual has a mail order business. People will either write in with an order or will be sent a price list of any type of anabolic steroids that they want. It will be listed on the sheet. They simply order it, and hopefully they will be sent something. It is like a honor system, I guess. There is a lot of rip-offs in it.

15 Q. All right. And then you mentioned a source of supply in Canada as the manufacturers, those -- that is the drug companies who actually manufacture and distribute these steroids. And I take it they obviously distribute in to the legitimate market?

20 A. They do, but there is employees that are pilfering the product at the source. And there is also orders being placed by people that really don't have

the right to order it. I guess, if it is not checked on closely, it goes out to these areas and then from there it is distributed.

5 Q. Have you found a situation or situations where pharmacies have been used as a, in effect, a distribution point?

10 A. We have information of body builders becoming friendly with pharmacists -- a pharmacist in a particular pharmacy and obtaining that way where they befriend the pharmacist and there is favors done or whatever, and it is supplied to the body builders. This happened this Quebec.

15 Q. Then you mentioned, Mr. St. Germain, that there are both counterfeit and legitimate steroids. And I think we got some indication of that two weeks ago when Mr. Dennis Degan from the Federal Drug Administration or Food and Drug Administration from the United States was here. He described the nature of the counterfeit market. Have you yourself done some independent work in tracking 20 down what the nature of the counterfeit market might be in Canada at the present time?

25 A. Yes, sir, there is quite a bit of counterfeit coming in through the border points as the product that's arriving in Canada. We have confirmed in the States that it is counterfeit, it doesn't belong to the

actual company although the labelling and bottles are almost identical.

5 We have had the local police here have picked up steroids from individuals on the street that we have had analyzed and we have brought to the companies in Canada and have found out that they are definitely not their product, although their name appears on it. And there is some anabolic steroids in it, but a very, very low percentage of what should be there.

10 Q. Now, did you in this work that you have been doing become aware of a study that had been done for the Federal Department of Health and Welfare concerning the steroid market in one western province?

A. Yes, sir.

15 Q. And can you just give us what the conclusions were of that study that was done recently concerning the steroid market in that province?

20 A. Most of the samples they obtained were bogus dosages and were of poor quality. All the oral samples that were purchased, there was no anabolic steroid in them at all. And the majority of the injectables was bogus, there was nothing in them.

25 There was only two products that actually contained an anabolic steroid, one being a black market Winstrol and other a testosterone product.

Q. And indeed the study gave an example, did it not, of at least one particular situation where the steroid package was sold with a syringe or syringes, is that not so?

5 A. Yes, sir. There was a black market kit that purported to contain human growth hormone and supplied a syringe, and the syringe was coated with a powder. It had obviously been used before, but it was wrapped in plastic and included in this kit. And the 10 syringe was filthy as basically what they were saying in the report.

15 Q. All right. Then, Mr. St. Germain, I wanted to ask you some questions about what has been done in Canada in recent years in terms of law enforcement and investigation under the Food and Drug Act here so far as steroids is concerned, and again being careful if any of the cases are still pending not to identify the cases, but what information can you give us as to what activity there's been in this area by law enforcement agencies in 20 Canada?

A. I guess a good example would be a mail order operation that was ongoing in Nova Scotia. The investigation was taken down last year and charges were laid and there was a fine of \$500.

25 The customer list for this operation showed

that the individual had 6,000 people on his customer list. The record showed that he received approximately 200 letters a day, and he mailed up to 1,500 letters a week out to potential customers with price lists and so. And it was interesting to note that his postal costs were in the vicinity of \$28,000.00 a year, yet when he was convicted, I believe the maximum was a \$500 fine.

Q. So, the maximum fine was \$500 and he received the maximum penalty?

A. Yes.

Q. Where the postal costs alone in this operation were \$28,000.00 a year?

A. Yes.

Q. And what year was that?

A. That was last year, 1988, that the search warrant was executed down in Nova Scotia.

Q. All right. Then there was a situation just south of the Niagara Peninsula, was there not, in the Lewiston area that involved a steroid seizure?

A. Yes, sir, in 1986, it was the American authorities made a seizure of anabolics coming into Canada or destined to come into Canada. And the street value of those drugs were approximately \$85,000.00.

Q. All right. And they were seized in the United States?

A. They were, sir, yes.

Q. Headed for Canada. Was there any --
were there any charges laid --

A. Not that I am aware of.

5 Q. -- in that case.

A. No, sir.

Q. All right. And then moving ahead to
1987, are you aware of a police investigation or are you
aware of a situation at that time that indicated some
10 steroid distribution?

A. Yes, sir, there was a seizure destined
for Canada at the border point of just over a ton.

15 THE COMMISSIONER: I am sorry, I didn't
hear the answer. Just over?

THE WITNESS: A ton.

THE COMMISSIONER: A ton.

16 THE WITNESS: About 2,100 pounds. That
again it was an American investigation, I believe, by
Customs and I am not aware of what happened. It was a
20 Customs seizure was effected.

MR. ARMSTRONG:

Q. That involved just over a ton or so of
steroids. Do you have any idea what the street value was?

25 A. A million and a half.

Q. A million-and-a-half dollars?

A. Uh-huh.

Q. Again, they were steroids that appeared to be from, at least immediately from the United States 5 headed to the Canadian black market?

A. Yes, sir.

Q. All right. And then what about in 10 1989, again are you aware of any situations in Canada involving investigations in regard to steroids in this year?

A. Yes, sir. In 1989, we have had a number of seizures both at border points and in the United States that emanated out of Canada.

We had one in the United States that 15 originated in London, Ontario, where there was a large amount of the steroids seized, approximate value of \$2 million, coming in to Canada recently within the last six months. And some of them were only a month and a half ago.

20 There was a seizure at the Saskatchewan-Montana border at North Portall of anabolic steroids that had originated in California and was sent by courier to Montana, and an individual from Saskatchewan went over the border and attempted to smuggle them into 25 Canada. And their destination was Regina.

We had a seizure in Sault Ste. Marie that was made last month. The drugs there were destined for the Sault Ste. Marie-Sudbury area.

5 We had a seizure at Cornwall approximately three or four months ago, and the value for duty on those was approximately \$10,000.00, and they were coming in for distribution, it appeared, into a gymnasium or body building club.

10 Q. All right. Now, again, there was a recently publicized indictment or criminal charge in the United States that apparently is still pending so I wouldn't ask you to comment one way or the other on that, but it involved some steroids that apparently were routed from Ireland and ended up in Kentucky and some arrests or 15 seizures were made there.

Have you any idea what the estimated street value is of the steroids involved in that seizure?

20 A. Yes, sir, it is approximately \$2 million.

THE COMMISSIONER: That was through Canada wasn't it? That was through Canada?

MR. ARMSTRONG:

25 Q. Did it go from Ireland, Switzerland into Canada then into the United States --

A. Yes, sir.

Q. -- so far as the available information is at the present time?

A. Yes, sir.

5 Q. All right. Now, I don't know whether you can help us on this or not, but if you can, have you, based on your experience in the other drug market and now based on your experience having spent a lot of time investigating, studying, reading about the steroid market 10 in Canada, are you in a position to -- perhaps the word is guesstimate, and perhaps I shouldn't ask a witness to guess, but we are -- are you in a position may be to estimate what you think the scope or size in terms of street value of dollars of the steroid market in Canada 15 is?

A. Well, generally we look at ourselves as a tenth of the United States because of our population. And if we look at what the Americans are estimating, and I have talked to Mr. Degan, and I agree probably very low, 20 but he estimates it is between 200 and 600 million dollars in the States.

So, I would say we are at least 20 to 60 million dollars here, and I think that's probably low.

Q. All right. Then finally, I wanted to 25 ask you a question of a comparative nature between us and

the United States following from your last question.

5 We heard Mr. Degan explain this set up of his office with he as the national -- with him as the National Coordinator of Steroid Investigation and the facilities that he had available. Is there yet anything like that in Canada?

A. No, sir.

10 Q. Therefore, where are we in Canada in terms of available resources to investigate violations of the law in respect of the distribution of steroids?

A. I guess we are probably where the Americans were five years ago when they created the position with the Food and Drug Administration.

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His job entails coordinating all facets of law enforcement in the United States, from the municipal level, state, federal. And the input coming in to him, he can determine trends and he, if he realizes a name in one part of the country, if he gets an enquiry from another part, he's able to come up and associate it with an organized ring, or an organization that's distributing steroids.

We haven't got that as of yet. I guess it's something that is in the future or when we have the manpower. I guess steroids are not a very high priority, or haven't been. As a result of this Commission, it's certainly been brought to light in law enforcement. The problem is manpower.

MR. ARMSTRONG: Thank you very much, Mr. St. Germain. Those are all the questions I have.

THE COMMISSIONER: Thank you very much, Mr. St. Germain. That's very, very helpful. No questions?

All right, that's it.

MR. ARMSTRONG: That's it. This would be my proposal: though we'd be finishing a little earlier than perhaps we ordinarily do, I have Ms. Hoffman and Mr. Makosky scheduled to go, and I think it would be fairer to them, since they have been around, sitting around cooling their heels since early this morning, to start them fresh

in the morning ---

THE COMMISSIONER: Very good. Tomorrow morning at 10 o'clock. Thank you very much.

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